

UTAH LEGISLATIVE DRAFTING MANUAL

AND STYLE GUIDE

Office of Legislative Research and
General Counsel

December 2023





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Chapter 1 — Introduction

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1. Purpose

The purpose of the Legislative Drafting Manual is to provide direction on style, consistent usage of terms and phrases, and technical aspects of legislative drafting. The manual is designed to assist in drafting legislation that is clear and concise, easily understood, difficult to misconstrue, and reasonably uniform among all drafters.

2. Legislative Drafting

Drafting legislation is both a technical exercise and an art. Because law protects our rights, governs the functioning of our economy, and impacts our lives in so many other ways, it is crucial that legislation is clear, easily understandable, and narrowly accomplishes its intended purpose. This necessitates drafting in a way that is precise and consistent in order to avoid accidental or intentional misinterpretation and to clearly reflect legislative intent.

3. Codified Drafting Rules

Utah Code Title 68, Chapter 3, Construction, contains legislative drafting rules, rules of construction, definitions that generally apply to the entire Utah Code, and other provisions relating to the interpretation of statutes. This chapter describes some of the provisions and requirements that chapter. A drafter should be familiar these statutory provisions and comply with their requirements.

4. Sources

Following is a list of sources available to assist a legislative drafter:

- Utah Legislative Drafting Manual
- Codified drafting rules
- Legislative Rules
- Utah Code
- Singer, Norman J. and J.D. Shambie, *Statutes and Statutory Construction*
- Sutherland *Statutes & Statutory Construction*
- Garner, *Black's Law Dictionary*
- *The Redbook: A Manual on Legal Style*
- *The Bluebook: A Uniform System of Citation*
- *The Chicago Manual of Style*
- *Merriam-Webster's Dictionary*
- *Thesaurus*

The Utah Legislative Drafting Manual and the codified drafting rules take precedence over the other sources.



Chapter 2 — Drafting Principles

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1. Active Voice

A legislative drafter should, to the greatest extent possible, draft in the active voice. A sentence is in the active voice if the subject of the sentence is the actor. A sentence is in the passive voice if the subject of the sentence is the noun being acted upon. Active voice identifies the actor, while passive voice often results in uncertainty regarding who the actor is. It is important that legislation clearly identifies who is required to act, permitted to act, or prohibited from acting.

Example

Do not say . . .

(1) The notice shall be mailed at least 30 days before the day of the hearing.

Instead say . . .

(1) The clerk shall mail the notice at least 30 days before the day of the hearing.

A drafter may use passive voice if:

- an identified actor is not involved;
- there are several different actors; or
- in rare circumstances, where using the active voice is awkward.

2. Complex Language

Draft using language that is in common use. Avoid terms or phrases that were commonly used in writing many years ago but are no longer the norm. Avoid using a complex term when a simpler term will suffice. To the extent possible, avoid using terms or phrases that are not normally used outside of court, contracts, or legal briefs.

For example:

- Instead of using the phrase “provided that,” simply say “except.”
- Don’t use the word “duly.” This is almost always a superfluous word and, in a case where it isn’t, a more precise word or phrase should be used instead.

- Don’t use the word “said,” “same,” or “such” to refer back to a previously stated item. Instead, refer to the item by name.

3. Coordinating Conjunctions — And, Or

a. General

The coordinating conjunctions most commonly used in legislative drafting are “and” and “or” (others include “for,” “nor,” “but,” “yet,” and “so”). Determining whether to use “and” or “or” may, at first glance, seem obvious, but at times the choice can be deceptively complex. This can especially be the case with lists. Some resources that demonstrate this include:

- Encino Motorcars, LLC v. Navarro, 138 S.Ct. 1134 (2018). *Statutory context may overcome the ordinary disjunctive meaning of “or.”*
- U.S. v. O’Driscoll, 761 F.2d. 589 (10th Cir. 1985). *In penal statutes, “or” is generally used as a disjunctive and may not be used as a conjunctive if the effect would be to increase the punishment.*
- Gallivan v. Walker: An Example of Statutory Surgery and Severability Malpractice, 2003 Utah L. Rev. 1019.

b. Lists or interlocked Subsections

In legislative drafting, a list is completed by using “and” or “or” between the second to last and last items in the list. “And” or “or” never appear after items at other places in the list, unless the list contains one or more sub-lists, in which case each sub-list is also completed by using “and” or “or” between the second to last and last items in the sub-list.

Example

(2) The association shall give written notice of the proposed amendment and the time and place of the meeting:

(a) at least 10 days before the day of the meeting to each member of the association by one of the following methods:

(Continued on page 3)



(Continued from page 2)

(i) mailing the notice to the last-known address of the member; or

(ii) personally serving the notice on the member; or

(b) at least 30 days before the day of the meeting by publishing the notice:

(i) in a periodical published by or for the association, to which substantially all members of the association are subscribers;

(ii) in a newspaper of general circulation in the state; and

(iii) as required in Section 45-1-101.

In the preceding example, the association has the option of complying with Subsection (2) by complying with either Subsection (2)(a) or Subsection (2)(b). If the association chooses to comply with Subsection (2)(a), the association may comply with the requirement using either the method described in Subsection (2)(a)(i) or the method described in Subsection (2)(a)(ii). If the association chooses, instead, to comply with Subsection (2)(b), the association is required to comply with Subsections (2)(a)(i), (ii), and (iii). The “or” at the end of Subsection (2)(a)(i) joins Subsection (2)(a)(i) to (2)(a)(ii). The “or” at the end of Subsection (2)(a)(ii) joins Subsection (2)(a) to (2)(b). The “and” at the end of Subsection (2)(b)(ii) joins Subsections (2)(b)(i), (2)(b)(ii), and (2)(b)(iii). This is accomplished without also inserting an “and” at the end of Subsection (2)(b)(i). If the association had the option of choosing only one of the options under Subsection (2)(b), an “or” would appear at the end of Subsection (2)(b)(ii) instead of an “and” and an “or” would not appear at the end of Subsection (2)(b)(i).

Never place an “and” between one item in a list (or sub-list) and an “or” between another item in the same list (or sub-list).

Example

Do not say . . .

(2) The association shall give written notice of the proposed amendment and the time and place of the meeting at least 30 days before the day of the meeting by publishing the notice:

(a) in a periodical published by or for the association, to which substantially all members of the association are subscribers; or

(b) in a newspaper of general circulation in the state; and

(c) as required in Section 45-1-101.

Instead say . . .

(2) The association shall give written notice of the proposed amendment and the time and place of the meeting at least 30 days before the day of the meeting by publishing the notice:

(a) in a periodical published by or for the association, to which substantially all members of the association are subscribers; or

(b) (i) in a newspaper of general circulation in the state; and

(ii) as required in Section 45-1-101.

In the preceding example, the first version is unclear. One interpretation is that an association is required to either comply with Subsection (2)(a) or both Subsections (2)(b) and (c). Another interpretation is that an association is required to comply with Subsection (2)(c) and either Subsection (2)(a) or (b). The second version makes it clear that an association is required to comply with either Subsection (2)(a) or both Subsections (2)(b) (i) and (ii).

Do not draft a list in which a sentence is attached to a phrase or clause. If there is only one inserted sentence, try moving the sentence to the end of the list or converting the sentence into a dependent clause. It may be necessary to turn the list into a list of sentences and insert the sentence directly after the list or to insert the sentence as a new subsection that is referenced by the subsection to which it applies.

c. Clear Indication of Intent

Never uses the term “and/or.” In many cases, “or” means “and/or,” but this is not always clear. Anytime a legislative drafter inserts “and” or “or” in a sentence or list, the drafter should carefully consider whether the intent of the list could be either accidentally, or intentionally, misread.



Clarify intent with respect to a list by using a phrase in the introduction to the list like “one or more of the following,” or “one of the following.”

Example

(2) The association shall give written notice of the proposed amendment and the time and place of the meeting at least 30 days before the day of the meeting by publishing the notice using one of the following methods:

- (a) in a periodical published by or for the association, to which substantially all members of the association are subscribers;
- (b) in a newspaper of general circulation in the state; or
- (c) as required in Section 45-1-101.

A drafter may clarify the intent with respect to a sentence by using the word “either” in the sentence at some point before the conjunction, or by ending the sentence with the phrase, “or both.”

Example

(1) A person may submit a written statement, an oral statement, or both.

4. Definitions

a. Use

Use definitions:

- if the meaning of a term or phrase is not apparent from its context;
- if a term or phrase is subject to more than one common meaning;
- if a term or phrase needs to have a more specific meaning, a more general meaning, or a meaning that is otherwise different from the usual meaning;
- to avoid confusion;
- to avoid using repetitive phrases;
- to reduce sentence length or complexity; or
- if otherwise necessary to ensure precise application of a provision.

b. Existing Definitions

When drafting in any area of the Utah Code, check all definition sections that apply to that portion of the code

to make sure that any term used in drafting is defined as intended. Utah Code Section 68-3-12.5 contains definitions that are applicable to the entire Utah Code unless:

- “the definition is inconsistent with the manifest intent of the Legislature or repugnant to the context of the statute;” or
- “a different definition is expressly provided for the respective title, chapter, part, section, or subsection.”

Definition sections also commonly appear at the beginning of titles, chapters, and parts.

c. Adding, Changing, Deleting, or Moving a Definition

If a drafter changes or adds a definition, the drafter must search the entire portion of the code to which the definition applies to make sure that the new definition or definitional change applies to the defined term or phrase in the manner intended. A drafter must conduct a similar search if the drafter deletes or moves a definition.

d. Use Intuitive Terms

When drafting a definition, use a term or phrase that could reasonably fit with the definition. For example, don’t define a “rock” to mean a “cabbage.”

e. Circular Definitions

Don’t draft a circular definition. A circular definition occurs when, for example, the first provision of a definition relies on a second provision to describe the first provision’s meaning and the second provision relies on first provision to describe the second provision’s meaning.

f. More Information

Chapter 3, Style and Usage, contains detailed instructions on drafting definitions in the Utah Code.

5. Organization of Provisions

A drafter should organize provisions in a manner that is intuitive and easy to follow. For example:

- a rule is normally stated before details regarding the rule or exceptions to the rule;
- an enforcement provision usually follows the requirement the provision is meant to enforce;
- events are usually listed in chronological order;



- a general provision usually proceeds a specific provision; and
- a drafter should use sections and subsections as a means of grouping provisions in a logical manner.

6. Positive Voice

A drafter should write positively and should avoid multiple negatives in one sentence.

Example

Do not say . . .

The director may not appoint members other than those with three years experience.

Instead say . . .

The director shall appoint members with at least three years experience.

7. Present Tense

To the extent possible, draft in the present tense. In less common circumstances, for example where two or more events must be expressed in a time relationship, the present tense may be used in conjunction with the past tense. The future tense is rarely necessary in legislative drafting.

Example

Do not say . . .

(4) If the director was notified . . .

Instead say . . .

(4) If the director is notified . . .

8. Pronouns

Avoid using imprecise pronouns. It is almost always preferable to restate the noun instead of using words like “it,” “them,” or “her.” Use of an imprecise pronoun can cause confusion in determining to which noun the pronoun refers.

9. Reading Level

To the extent possible, without sacrificing clarity, draft at an easy reading level. Our goal is to clear and concise. We are not trying to impress anyone. An adult of average intelligence should be able to read and understand each provision of law.

Example

Do not say . . .

(2) A person who violates Subsection (1) shall be guilty of a class C misdemeanor.

Instead say . . .

(2) A person who violates Subsection (1) is guilty of a class C misdemeanor.

10. Referencing Other Provisions

Often, when drafting a new provision in a section, a drafter will refer to a matter in a preceding or subsequent subsection. The best practice in this scenario is usually to refer to the other Subsection by number rather than only making a verbal reference. This helps

Example

If a preceding subsection being referenced states . . .

(3) The commissioner shall issue an order establishing the application submission deadline.

Do not say . . .

(7) Within 14 days after the day on which the commissioner issues the order, the commissioner shall . . .

Instead say . . .

(7) Within 14 days after the day on which the commissioner issues the order described in Subsection (3), the commissioner shall . . .

11. Sentences

a. Avoid Long or Complex Sentences

It is easier to draft in a clear, concise manner if a drafter avoids using long or complex sentences. This can be accomplished using a variety of methods, including:

- Using a defined term to replace a long description or a repeated phrase
- Referring to previously stated information by referencing a specific subsection
- Dividing a sentence into two or more sentences
- Dividing a sentence into subsections

b. Sentence Structure

i. Agreement

A. Between Pronoun and Antecedent

An antecedent is a noun or pronoun to which a subse-

(Continued on page 6)



(Continued from page 5)

quent noun or pronoun refers. Clear drafting requires that a noun or pronoun *agree* with its antecedent in number (i.e. singular or plural), person, gender, and case.

B. Between Subject and Verb

Clear drafting requires that when a subject and verb are used together, the subject and verb agree in number (i.e. singular or plural).

ii. Articles

When referring to a class of nouns, first refer to the class using an indefinite article, then, for requirements or prohibitions relating separately to each member of the class, refer to an individual member of the class using a definite article.

Example

Do not say . . .

(1) A hospital shall establish an opioid prescribing review process if *a* hospital has an average daily patient capacity of 100 or more.

Instead say . . .

(1) A hospital shall establish an opioid prescribing review process if *the* hospital has an average daily patient capacity of 100 or more.

The first sentence in the example could be read to require a hospital with an average daily patient capacity of 50 to establish a review process if any other hospital has an average daily patient capacity of 100 or more. The second sentence in the example only requires a hospital to establish a review process if that hospital has an average daily patient capacity of 100 or more.

iii. Modifiers

A modifier (and similar grammatical elements referred to as compliments or arguments) is an optional element in a sentence that modifies the meaning of another element in the sentence. Modifiers are regularly used in legislative drafting and can take the form of prepositions, prepositional phrases, exceptions, exclusions, inclusions, adjectives, adverbs, etc. It is extremely important in drafting to ensure that a sentence's structure clearly indicates the portion of the sentence to which the modi-

fier relates. Lack of clarity can result in a vague statutory provision that does not accurately convey legislative intent. Proper use of subsections can help alleviate this confusion in the use of a modifier.

Example

Do not say . . .

(2) The board comprises six members, including governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer, or a designee.

Instead say . . .

(2) The board comprises six members, including:
(a) the governor, the lieutenant governor, the attorney general, the state auditor, and the state treasurer; or
(b) a designee of an individual described in Subsection (2)(a).

In the first sentence of the example, it is unclear if "designee" relates to the state treasurer or to each office listed. It is also unclear whether the officers listed may select the designee or if some other individual, like the director of the division within which a board is created, selects the designee.

iv. Negative Subject

Do not use phrases like "no person may" or "no person shall." "No person shall" literally means that no one is required to act. Instead, use a phrase like "a person may not."

v. Object and Verb

To ensure clarity, keep a verb close to the verb's object.

vi. Subject and Verb

To ensure clarity, keep the subject of a sentence close to the verb pertaining to the subject.

12. Singular

To the extent possible, draft in the singular.

13. Subsections

An understanding of the proper use of subsections is essential to legislative drafting.

a. Clarity

Divide a sentence into subsections if necessary or helpful to clarify the meaning of the sentence. Subsections can be used to:



- avoid a long or complex sentence;
- avoid losing a provision in a string of provisions; and
- specify the portion of a sentence that a provision is meant to modify.

Example

Do not say . . .

(1) The driver shall attach a blue sign or a flag.

Instead say . . .

(If both the sign and the flag are required to be blue)

(1) The driver shall attach a blue:

- (a) sign; or
- (b) flag.

Or . . .

(If only the sign is required to be blue)

(1) The driver shall attach:

- (a) a blue sign; or
- (b) a flag.

Example

(1) The requester may:

- (a) appeal the decision to the State Records Committee;
- (b) petition for judicial review of the decision in district court; or
- (c) if the request is denied by a political subdivision, appeal the decision to the local appeals board.

b. Organization

Subsections are used to organize statutory provisions in a logical manner that is easier to read than a solid paragraph. Subsections can also be used to group related provisions together.

c. Subsections as Complete Sentences

Ensure that a sentence divided into subsections reads as a complete sentence and that each element of a list within a subsection can be read separately with the introductory phrase that precedes the list.

If the subsection labels are removed from the preceding example, and appropriate punctuation is inserted, the preceding statement reads as a complete (though rather long and complex) statement. Additionally, each element of the list may be read as a separate statement

(after removing “or”) beginning with the phrase “the requester may.”

Example

(1) The requester may appeal the decision to the State Records Committee.

(1) The requester may petition for judicial review of the decision in district court.

(1) The requester may, if the request is denied by a political subdivision, appeal the decision to the local appeals board.

Never insert a sentence within the ongoing sentence of a subsection. Instead create a new subsection and reference the existing provision to clarify the provision to which the new subsection applies.

14. Verbs and Nouns

a. Artificially Converting a part of Speech

Don’t convert a word normally used as a noun into a verb.

Example

Do not say . . .

(3) The division shall calendar a meeting.

Instead say . . .

(3) The division shall schedule a meeting.

Don’t convert a word normally used as a verb into a noun.

Example

Do not say . . .

(3) The director shall give consideration to the officer’s recommendation.

Instead say . . .

(3) The director shall consider the officer’s recommendation.

b. Priority to Verbs

Give priority to the use of a verb over the use of a noun.

15. Words and Phrases

Be careful and intentional in word choice to ensure that the language precisely reflects the intent of the provision being drafted. Appendix A contains a list of problematic terms and phrases.



a. Care

Do not accidentally be over-inclusive, under-inclusive, vague, or unclear. Think about potential loopholes. Can anything you drafted be accidentally, or intentionally, misread?

Example

Do not say . . .

“Qualified political party” means a registered political party that permits a member of the registered political party to seek the registered political party's nomination for any elective office by either or both of the following methods . . .

The preceding statement does not make clear whether the party makes the choice or the member makes the choice.

Instead say . . .

“Qualified political party” means a registered political party that permits a member of the registered political party to seek the registered political party's nomination for any elective office by the member choosing to seek the nomination by either or both of the following methods . . .

b. Consistency

Use consistent terms and phrases.

Example

If a preceding, applicable statement states . . .

(4) The court shall determine whether the evidence shows . . .

Do not say . . .

(5) If the court finds that . . .

The use of the word “finds” in Subsection (5) instead of the word “determines” can make it unclear whether Subsection (5) is referring to the determination in Subsection (4) or to an earlier provision.

Instead, say . . .

(2) If the court determines that . . .

c. Precision

Use precise terms and phrases.

Example

Do not say . . .

(3) The director shall piece together a report.

Instead, say . . .

(3) The director shall draft a report.

Be careful of words or phrases like:

- Currently *Current with what?*
- After *Any time after or immediately after?*
- By *Does this mean “before” or “on or before?”*
- Near or far *Distance is in the eye of the beholder*

d. Superfluous Words

Do not include words that are superfluous. Each word should be chosen with care. Do not include a list of synonyms unless the list is necessary.

Examples

Do not say . . .

“are in full force and effect”

Instead, say . . .

“are in effect” or “take effect”

Do not say . . .

“rules and regulations”

Instead say . . .

“rules”

The terms “rules” and “regulations” often mean the same thing, so only one needs to be mentioned. Further, in legislative drafting, a “rule” refers to administrative law while a regulation may mean something else.

Other superfluous words and phrases include:

- True
- Actual
- So long as (use “if”)
- Provided that (use “if” or “unless”)
- Any (if “a” or “the” will suffice)
- Each (if “a” or “the” will suffice)
- Is deemed (use “is”)
- Whether or not (use “whether”)
- In the event that (use “if”)



- Such
- Subsequent to (use “after”)
- Prior to (use “before”)
- Such time as (use “when”)
- Duly authorized (use authorized)



Chapter 3 — Style and Usage

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1. Abbreviations

In legislative drafting, abbreviations are only used in legal citations (for example “et seq.”) or to indicate a time of day (for example, “a.m.” or “p.m.”). Otherwise, avoid using an abbreviation. Terms like “etc.” or “e.g.” that are always abbreviated are not used in legislative drafting.

2. Acronyms

A primary goal of drafting legislation is to ensure that it is clear and easy to read. The use of acronyms is often an impediment to this goal. However, in rare cases, using acronyms can increase clarity and readability. Examples may include:

- an acronym that is commonly recognized by the general public (e.g. “IRS”);
- where an acronym is used to replace the repetitive use of a long string of words (but a drafter should first consider whether a defined term or phrase would be better); or
- where an acronym is used to avoid confusion with another term. In almost all cases, an acronym should be defined.

3. Age

Refer to an individual’s age by using the phrase “years old” rather than “years of age.” However, if the drafter is amending a portion of code where the phrase “years of age” already exists, the drafter should either change all uses of “years of age” to “years old” or continue to use the term “years of age” to maintain consistency. A drafter should carefully draft references to age to avoid misunderstanding. For example, a drafter should use the phrase “eighteen years old” when the drafter means to say “eighteen years old or older.”

4. Capitalization

a. When to Capitalize

Capitalize the following:

- The first word in a sentence.
- A month or day of the week.

- The name of a state or country (“Utah” or “United States”).
- The name of an institution (“University of Utah”).
- The official name of a private entity (such as “Libertarian Party” or “Utah State Bar”).
- The official name of a court or other government entity (“Utah Supreme Court” or “Department of Health and Human Services”).
- “Legislature” only when referring to the Utah State Legislature.
- “Senate,” “House,” “House of Representatives,” or “Congress” only when referring to a house in the Utah State Legislature or to the United States Congress.
- A name, proper derivative of a proper name, a place, an historic event, or a holiday (“John Smith,” “Utah Lake,” “World War II,” or “Easter”).
- An official short title or popular name of an act, bill, code, or statute (“Social Security Act”).
- “Title,” “Chapter,” “Part,” “Section,” “Subsection,” or other designation of a major portion of code, when accompanied by the number of that portion of code (Chapter 35).
- The name of a program (“Medicare,” “Medicaid,” or “Social Security”).
- A specific reference to a state constitution or code (“Utah Constitution” or “Utah Code”) but not when a general reference (“this constitution”).
- A proper name of an amendment (“Fourteenth Amendment”) but not a general reference (“the equal protection amendment” or “this amendment”).
- A specific fund or account (“General Fund” or “Mineral Lease Account”).



b. When Not to Capitalize

Do not capitalize the following:

A generic political division (“state” or “county”) except when it follows the name of the political division ("Salt Lake County").

A title of a federal, state, local, or judicial official (“governor,” “president,” “speaker,” “congressional delegation,” “commissioner,” “senator,” “representative,” “director,” “attorney general,” “judge,” “justice,” “chief justice,” or “treasurer,”) unless used to refer to a particular person ("Governor Young").

The words "federal," "state," or "court" when not part of a proper name, except when "Supreme Court" refers to the Utah Supreme Court.

- The term “general session,” unless it is used in conjunction with a specific year (“2020 General Session”).
- "social security number," "social security benefits," etc.

5. Code Organization

The Utah Code is divided into titles, chapters, parts, sections, and subsections.

a. Titles and Chapters

Titles and chapters are designated by a single-digit or double-digit number (sometimes followed by a letter) and a name. The name of a title or chapter appears in boldface but is not codified.

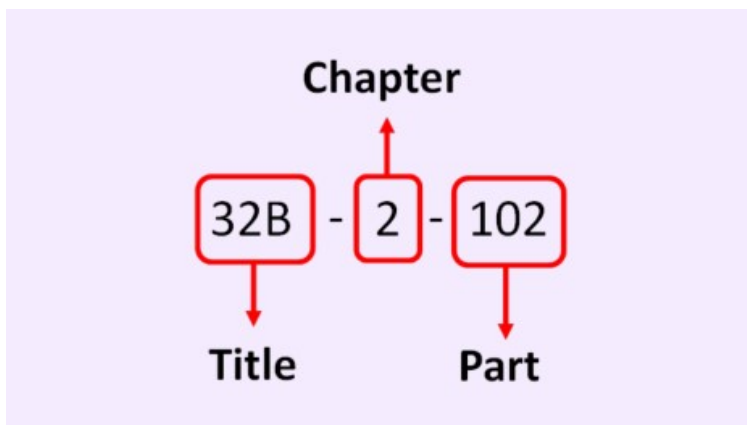
b. Parts

Parts are also designated by a single-digit or double-digit number (never followed by a letter) and a name. The name of a part appears in boldface but is not codified.

c. Sections

A section is the fundamental unit of the Utah Code. A section is numbered in three distinct numeric phrases (a title or chapter may also include a letter following the number) offset by hyphens. A section in the chapter should have as the last number in the section number a three-digit number (unless the drafter is adding a section to a chapter that uses an older numbering system). This system provides greater ease in adding new sections.

A section number comprises the following:



d. Subsections

The following is a list of subsections used in a section of the Utah Code. Designations below the line are a relic of the past and may not be used without permission from the general counsel.

Section 1-1-101. Example.

- (1)
 - (a)
 - (b)
 - (i)
 - (ii)
 - (A)
 - (B)
-
- (I)
 - (II)
 - (Aa)

If a series of subsections at the same level exceeds 26 and the subsections are designated by letters, the extension is made by doubling or tripling the letters as needed.

Section 1-1-101. Example of beyond (z)

- (1)
 - (a)
 - (b) . . .
 - (y)
 - (z)
 - (aa)
 - (bb) . . .
 - (yy)
 - (zz)
 - (aaa)
 - (bbb)



Section 1-1-101. Example of beyond (Z)

- (1)
 - (a)
 - (i)
 - (A)
 - (B) . . .
 - (Y)
 - (Z)
 - (AA)
 - (BB) . . .
 - (YY)
 - (ZZ)
 - (AAA)
 - (BBB)

6. Citations

a. Citation to Title, Chapter, or Part

A title, chapter, or part is referenced by number, followed by the name of the title, chapter, or part, followed by a comma (or, at the end of a sentence, a period).

Example

Title 20A, Election Code,
Title 20A, Chapter 3a, Part 2, Voting Procedures,

If citing to a chapter within the same title as the citing provision, do not include the title in the citation. Similarly, if citing to a part within the same chapter as the citing provision, do not include the title or chapter in the citation.

Examples

If drafting in Title 20A, Chapter 3a, Voting, and citing to Title 20A, Chapter 6, Ballot Form, the citation will appear as follows:

Chapter 6, Ballot Form,

If drafting in Title 20A, Chapter 3a, Part 2 Voting Procedures, and citing to Title 20A, Chapter 3a, Part 6, Early Voting, the citation will appear as follows:

Part 6, Early Voting

When citing to two or more chapters, the drafter should use the conjunction "and," "through," or "or" as applicable. If using "and" or "through," the words "chapter" or "part" should be plural. If using "or," the words

"chapter" or part" should be singular.

b. Citation to a Section

Refer to another section by the capitalized designation "Section" followed by the section number.

Example

Section 53B-7-104

When a section references itself, use the phrase "this section" without capitalization and without referring to the section number.

c. Citation to a Subsection

Refer to a subsection within the same section by the capitalized designation "Subsection" followed by the subsection number.

Example

Subsection (5)(a)
Subsection (2)(c)(ii)(A)

If referring to the same subsection where the referencing provision appears, use the phrase "this Subsection," followed by the subsection number.

Examples

If drafting in, and referring to, Subsection (5)(a):

this Subsection (5)(a)

If drafting in Subsection (5)(a)(ii) and referring to all of Subsection (5)(a):

this Subsection (5)(a)

If referring to a subsection outside of the section where the referencing provision appears, cite the subsection by first referencing the section, followed by the subsection.

Example

Subsection 75-2-207(1)(a)(iii)

d. Citation to Laws of Utah

Sometimes a bill is not codified into the Utah Code, and the only reference available is to the Laws of Utah. In that case, refer to the chapter and year of the session law involved. If a bill passes during a special session, the special session is also cited. In general, it is only necessary to refer to the most recent legislative session in



which the law is enacted or amended, unless the intent is to refer to a specific action taken during a specific legislative session. A citation to the Laws of Utah should be as specific as necessary to reflect the intent of the Legislature.

Examples

Laws of Utah 2007, Chapter 288, Sections 25 and 26
Laws of Utah 1991, Chapter 17, Section 1, Subsection 30-1-2(1)

Laws of Utah 2001, First Special Session, Chapter 5
Laws of Utah 2001, Chapter 334, Uncodified Section 8

e. Citation to Utah Constitution

Within the body of legislation, the *Utah Constitution* is cited by article and section.

Example

Utah Constitution, Article VI, Section 1, Subsection (2)

f. Citation to Legislative Rule

Rules that apply to both houses are cited as joint or interim legislative rules, as applicable. Rules that apply to one house are cited as Senate rules or House rules, as applicable.

Example

Legislative Joint Rule 4-1-101
Legislative Interim Rule 2.01

g. Citation to Court Rule

Cite to Utah court rules as follows.

Examples

Utah Rules of Civil Procedure, Rule 65B
Utah Rules of Evidence, Rule 20
Utah Rules of Criminal Procedure, Rule 15
Utah Rules of Appellate Procedure, Rule 5
Utah Code of Judicial Administration, Rule 7-201
Utah Juvenile Court Rules of Practice and Procedure, Rule 10

h. Citation to Federal Statute

If possible, cite federal statute by reference to the United States Code. If a cite to the United States Code is not

practical, use the Public Law or Statutes at Large cite. The key principle is making it easy for an average reader of the Utah Code to find the federal law.

The term "et seq." may be used in citing federal law but not Utah Code. Do not use phrases like "of the laws of the United States."

Reference to both the short title and to the United States Code citation is acceptable to enable a person to easily identify the federal law in question. A reference to the short title should almost always include a reference the United States Code or the Public Law. A short title alone may be referenced if citing to a well-known or often changed federal law (for example the Social Security Act or the Internal Revenue Code). When referencing the Internal Revenue Code, always refer to the cite as "section" and not "subsection."

Examples

Fair Housing Amendments Act of 1988, 42 U.S.C. Sec. 3601 et seq.

Truth in Lending Act, 15 U.S.C. Sec. 1601 et seq.

Title XIX of the Social Security Act, 42 U.S.C. Sec. 1396 et seq.

Title IV, Part D of the Social Security Act, 42 U.S.C. 651 et seq.

Part A and B of Title XVIII of the Social Security Act, 42 U.S.C. 1395 et seq.

Subsection 454 (19)(B)(i) of the Social Security Act, 42 U.S.C. Sec. 654

Section 41(c)(4), Internal Revenue Code

Section 408, Internal Revenue Code

the Social Security Act

i. Citation to Federal Rule

When citing a federal rule (regulation), the cite should be to the Code of Federal Regulations. A cite to the short title or common name of a federal regulation is not required but may be included with the cite to the Code of Federal Regulations. Do not cite a federal regulation by short title only. Do not use a phrase like "of the Code of Federal Regulations."



Examples

- 9 C.F.R. Sec. 201.97
- 40 C.F.R. Sec. 60.51c
- 14 C.F.R. Part 139
- 40 C.F.R., Part 280, Subpart D
- 40 C.F.R. Part 51, Subpart S, Appendix E
- 21 C.F.R. Parts 101 and 131
- 14 C.F.R. Chapter 141
- 23 C.F.R. Chapter 11, Subchapter B, Part 1235.2 Schedules I through V, 21 C.F.R. Part 1308
- Table One, 40 C.F.R. Sec. 261.24
- Domestic Licensing of Source Material, 10 C.F.R. Part 40
- Rule 144A, 17 C.F.R. Sec. 230.144A
- Section 32 of Regulation Z, 12 C.F.R. Sec. 226.32
- Code of Federal Regulations, Title 16, Chapter I, Subchapter D, Trade Regulation Rules, Part 436

j. Citation to Federal Constitution

Within the body of legislation, a cite to the Constitution of the United States should include the relevant article and section. A cite to an amendment to the Constitution of the United States should be spelled out and initial capped.

Examples

United States Constitution, Article II, Section 3 Eleventh Amendment to the United States Constitution

Do not say . . .

The Eleventh Amendment of the United States Constitution

Instead, say . . .

The Eleventh Amendment to the United States Constitution

k. Citation to Case Law

In the rare situations where it is necessary to cite to case law in the text of a statute, include the name and citation of the case without underlining or italics.

Examples

(b) "Uintah and Ouray Reservation" means the lands recognized as being included within the Uintah and

Ouray Reservation in:

- (i) Hagen v. Utah, 510 U.S. 399 (1994); and
- (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).

I. Words and Phrases Used with Citations

Certain words or phrases are often used to refer to other subsections, sections, parts, chapters, or titles within the Utah Code, as well as federal law, federal administrative rules, and other sources. Consistency throughout the code, and accuracy, are both important considerations when using these words or phrases. Following is a discussion of the most common "referencing" words and phrases and their uses.

i. Described in

"Described in" is the preferred phrase when referring to another provision and should be used unless it doesn't make sense or another word or phrase fits better. Avoid using phrases like "prescribed in" or "listed in." While "prescribed in" has a different meaning than "described in," the purpose of the phrase is simply to point to the other provision. The provision itself should clearly indicate whether it is a requirement, so using "prescribed in" rather than "described in" is unnecessary.

ii. In Accordance With

"In accordance with" is used to refer to a procedure to be followed or a set of requirements to comply with.

Examples

. . . in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

. . . obtaining raw milk in accordance with the terms of a cow-share program agreement.

Do not use the phrases "in accordance with the provisions of" or "according to."

iii. Under

"Under" is used to refer to a procedure that was followed, an event that occurred, or to a procedure or event that is presently occurring or already occurred.

Example

An individual elected to an office under Section 20A-1-303 shall . . .



Do not use “under” if “described in” will work.

iv. Imprecise references

Avoid using imprecise words to reference another provision. Examples of imprecise words include above, below, preceding, hereinafter, heretofore, foregoing, and said.

7. Conditional

a. Except as, Notwithstanding, Subject to, Unless

“Except as” is usually used to refer to an exception stated in another section or subsection.

Example

(1) Except as provided in Subsection (2), an applicant is required to submit to a criminal background check.

(2) An applicant is not required to submit to a criminal background check if the applicant . . .

“Except as” usually appears at the beginning of a sentence, rather than in the middle of a sentence or at the end.

If an exception is stated in the same sentence as the provision to which the exception is made, the exception is usually preceded by the word “unless.”

Example

(1) An applicant is required to submit to a criminal background check, unless the applicant . . .

The phrase “except as” and the word “unless” describe circumstances where the provision excepted does not apply.

“Subject to” is usually used to refer to a condition stated in another section or subsection. “Subject to” is not used if the phrase refers to an exception to a provision. Rather, it is used if to refer to an additional requirement relating to the provision. Never use “subject to” if “except as” may be properly used in its place. “Subject to” usually appears at the beginning of a sentence, rather than in the middle of a sentence or at the end.

Example

(1) Subject Subsection (2), an applicant is required to submit to a criminal background check.

(2) An applicant under the age of 18 may not submit to a criminal background check unless the applicant ob-

tains written permission from a parent or guardian of the applicant to . . .

“Notwithstanding” is used to introduce an exception to a provision stated in another section or subsection if the provision referred to does not include the phrase “except as.” Using “except as” in a provision is usually, though not always, preferable to using “notwithstanding” in the exception to the provision. Never use “notwithstanding” to introduce an exception to a provision that includes the phrase “except as.”

Instead, use only the “except as” stipulation or the “notwithstanding” stipulation.

Example

If you say . . .

(1) Except as provided in Subsection (2), an applicant is required to submit to a criminal background check.

Do not say . . .

(2) Notwithstanding Subsection (1), an applicant is not required to submit to a criminal background check if the applicant . . .

b. “If Then” Statements

A drafter using an “if then” type statement does not include the word “then” in the statement.

Example

Do not say . . .

(1) If the division approves the application, then the applicant may . . .

Instead say . . .

(1) If the division approves the application, the applicant may . . .

8. Definitions

For a discussion on when to use a definition and general principles relating to definitions, see Chapter 2, General Drafting Principles.

Never incorporate a substantive provision within a definition. Only place a substantive provision in a section or subsection that does not contain a list of definitions.

a. Format of a Definition

Definitions usually appear at the beginning of the title, chapter, part, section, or subsection to which they ap-



ply.

Definitions are always placed in alphabetical (word by word) order. A definition or list of definitions always begins with the phrase “As used in this . . .” followed by the word “title,” “chapter,” “part,” “section,” or “subsection.” The word “Subsection” is always capitalized in this case and is followed by the designation of the subsection to which it relates.

Example

(1) (a) As used in this Subsection (1), “condominium” means . . .

If only one term or phrase is defined, the drafter should use the format shown in the preceding example.

If more than one term or phrase is defined, the drafter introduces the list with “As used in this . . .” followed by a colon and a separate sentence for each definition.

Example

As used in this chapter:

- (1) "Adult" means an individual 18 years old or older.
- (2) "Child" means any individual under 18 years old.

b. Inclusions and Exclusions

Most definitions begin with the word “means,” followed by the definition of the term or phrase. In some circumstances, a drafter may, after defining the term or phrase, want to list specific things that are included in, or excluded from, the definition. In these circumstances, a drafter should use the format shown in the following example.

Example

As used in this chapter:

- (1) (a) “Filing day” means Monday or Tuesday.
- (b) “Filing day” includes Wednesday if the office is closed on Monday of that same week for a federal or state holiday.
- (c) “Filing day” does not include a day on which the office is closed for a federal or state holiday.

Never use the phrase “includes, but is not limited to” in a definition. See Utah Code Subsections 68-3-12(1)(f) and (2)(a) and Subsection 11, Inclusive or Exclusive, un-

der this chapter.

c. Incorporating a Definition by Reference

Under certain circumstances, a drafter may incorporate a definition by referencing a definition that already exists in Utah Code, federal code, or federal administrative rule. Never incorporate a Utah administrative rule by reference. Only incorporate a definition by reference if it is intended that any change in the definition referenced will always apply to the referencing term. If this is not the case, it is better to copy the definition so that it does not change every time the referenced definition changes.

When incorporating a definition by reference, refer only to the section number being referenced if the referenced section is a section containing definitions only. Otherwise, a drafter will usually include the subsection in the reference to make the definition easier to locate. An example of the phrase and format used by the office to incorporate a definition by reference follows.

Example

(10) "Municipality" means the same as that term is defined in Section 10-1-104.

If incorporating a definition by reference within a sentence, use the following format:

Example

(4) An individual who has been convicted of a grievous sexual offense, as defined in Section 76-1- 601, against a child, may not hold the office of State Board of Education member or local school board member.

9. Discretionary, Mandatory, Prohibitive

Whenever possible, an obligation or discretion to act should be stated positively. Do not use the expressions "is authorized to," "is empowered to," "has the duty to," "can," or "the Legislature intends that the director shall." Instead, use the words “shall” or “may.” The use of the following discretionary and mandatory words in legislative drafting is expressly governed by law.

a. May

“May” means that an action is authorized or permissive (Utah Code 68-3-129(1)(g)). "May" is used when



granting a right, privilege, or power, or when indicating discretion to act. Do not use the expressions "is authorized to" or "in [the actor's] discretion."

b. May Not

To indicate that action is prohibited, a legislative drafter should use the phrase "may not."

"May not" means that an action is not authorized and is prohibited (Utah Code 68-3-129(1)(g)).

The phrase "shall not" negates the obligation to act, but not the authority to act. "May not" negates both the obligation and the authority to act and is, therefore, the stronger prohibition.

The use of the terms "shall not," "should not," or "must not," is strongly discouraged, unless unusual circumstances require the use of the terms, including use in an interstate compact or to ensure consistency with a federal law or rule (Utah Code 68-3-129(2)(a) and (b)).

Do not use a phrase like "no person may" or "no person shall" should not be used in drafting legislation. No person shall" is subject to the following, conflicting interpretations:

- that no person is required to act; or
- that all persons are prohibited from acting.

The negative is best used with the action and not the actor.

c. Must

"Must" means, depending on the context in which it is used, that:

- an action is required or mandatory;
- an action or result is compelled by necessity;
- an item is indispensable; or
- an action or event is a condition precedent to:
 - the authority to act;
 - a prohibition;
 - the accrual or loss of a right; or
 - the imposition or removal of an obligation.

(Utah Code 68-3-129(1)(i))

Though one definition of the term "must" is that "an action is required or mandatory" (Utah Code 68-3-12(1)(i) (i)), a drafter should avoid using this form of the term.

This variation of the definition is only included in the Utah Code to account for aberrations within the code. The use of the word "must" is strongly discouraged when the term "shall" can be used in its place (Utah Code 68-3-129(2)(d)).

d. Shall

"Shall" means that an action is required or mandatory (Utah Code 68-3-129(1)(j)). "Shall" is used when indicating an obligation to act.

e. Should

Except in the following circumstances, drafters are strongly discouraged from using the word "should":

- To refer to a recommended action, including a provision that a person shall or may recommend whether an action "should" be taken.
- To indicate an expected standard of knowledge, including a provision that a person "should" know whether a fact exists or that an action is likely to cause a specified result.
- To refer to a determination as to whether an action "should" have occurred.

(Utah Code 68-3-129(2)(c))

The use of the word "should" is uncommon in legislative drafting. On the rare occasions when it is used, "should" is usually preferable to "ought," because "ought" is not defined for purposes of the Utah Code.

10. Formulas

Use extreme care when expressing a formula in statute to ensure that each step of the formula follows the correct sequence and that there is no room for misunderstanding.

If, for example, a formula mixes multiplication or division with addition or subtraction, the order in which the steps are carried out matters.

The use of subsections to break up each step of a formula is one way to ensure an accurate description of a formula.

Example

The commission shall calculate the fee owed under this section by:

(Continued on page 18)



(Continued from page 17)

- (1) multiplying the annual income of the applicant by .5; and
- (2) subtracting \$50 from the amount calculated under Subsection (1).

11. Gender Neutral

a. General

Utah Code 68-3-12(1)(c) states that a “word used in one gender includes the other gender.” A drafter is required to use gender-neutral pronouns unless a provision intentionally relates to only one gender (for example, in a statute relating to abortion, adoption, or parental rights). This requirement fulfills the goal of clearly expressing the Legislature's intent in an accurate, non-discriminatory manner. A drafter should remove improper uses of gender-specific terms in existing code.

b. Methods of Avoiding Gender-Specific Pronouns

A drafter may use the following methods to avoid the improper use of gender-specific terms. Choose the method that best accomplishes the goal of a clear well-drafted statute. A drafter should not use a plural pronoun as a method of replacing a gender-specific pronoun.

i. Use Gender-Neutral Nouns

Replace gender-specific nouns with gender-neutral nouns, for example:

Use “chair” instead of “chairman.”

Use “law enforcement officer” instead of “policeman.”

Use “firefighter” instead of “fireman.”

However, do not create gender-specific nouns that are not commonly understood in the English language. For example, use "manhole," not "personhole."

ii. Repeat the Antecedent Noun

Repeat the antecedent noun instead of using a gender-specific noun. This is often the easiest and clearest way to avoid using gender-specific terms.

This may not be the best method if the sentence requires the noun to be repeated so often that the sentence becomes cumbersome or difficult to understand.

Example

Do not say:

The director shall certify that he accurately reported the expenditure.

Instead say:

The director shall certify that the director accurately reported the expenditure.

iii. Use an Article Instead of a Possessive Pronoun

Instead of a possessive pronoun, use an article (a, an, or the).

Example

Do not say:

An individual waives his right to a trial if . . .

Instead say:

An individual waives the right to a trial if . . .

In some cases, neither a possessive pronoun nor an article is necessary.

Example

Do not say:

An individual may lose his membership if . . .

Instead say:

An individual may lose membership if . . .

iv. Use an Interrogative or Demonstrative Expression

In this method, the drafter uses "who" or "that" as the subject of the sentence to, by inference, relate to one or multiple verbs.

Example

Do not say:

If an applicant is licensed in another state, he shall submit a verified application.

Instead say:

An applicant who is licensed in another state shall submit a verified application.



v. Rephrase the Nominal

Use a verb instead of a nominal phrase.

Example

Do not say:

An individual who has in his possession a controlled substance in violation of this chapter is guilty of a first degree felony.

Instead say:

An individual who possesses a controlled substance in violation of this chapter is guilty of a first degree felony.

v. Rephrase the Nominal

Use a verb instead of a nominal phrase.

Examples

Do not say:

If the commissioner finds that the sampling frequency can be safely reduced, he may order the sampling frequency reduced in accordance with Subsection (2).

Instead say:

Upon finding that the sampling frequency can be safely reduced, the commissioner may order the sampling frequency reduced in accordance with Subsection (2).

Do not say:

If an individual is not authorized to conduct business under this chapter, he may not claim to be a certified specialist.

Instead say:

An individual who is not authorized to conduct business under this chapter may not claim to be a certified specialist.

vii. Last Resort – Refer to Both Genders

As a last resort, a drafter may refer to both genders. This should only be used if other methods are not possible or result in an unclear sentence. Use of this method is very rare, and usually only arises when the phrase "himself or herself" is used. On occasion, "himself or herself" can be replaced with "oneself," but, depending on the sentence, this can be awkward and is not always the best solution.

12. Inclusive or Exclusive

When drafting a list, a legislative drafter should carefully

consider whether the list evidences an intent to be an inclusive or exclusive list.

Utah Code 68-3-12(1)(f) states that, as used in the Utah Code "include," "includes," or "including" means that the items listed are not an exclusive list, unless the word "only" or similar language is used to expressly indicate that the list is an exclusive list.

Further, Utah Code 68-3-12(2)(a) provides that the use of the phrase "but not limited to" after "include," "includes," or "including" is strongly discouraged.

Example

(2) An individual shall present an official form of identification that contains a photograph of the individual, including:

- (a) a driver license;
- (b) an official state identification card; or
- (c) a tribal identification card.

In the preceding example, though not expressly listed, a concealed firearm permit could reasonably be interpreted to be included because it meets the criteria described in the first part of the sentence and is similar to the types of identification listed. However, a fitness club membership card that contains a photograph is probably not included, because it is not an "official form of identification" and is not similar to the types of identification listed. Of course, expressly including a concealed firearm permit in the list is, for the sake of clarity, the preferable option.

If necessary, a legislative drafter may list an item that is not to be included under a definition or enumeration. The drafter accomplishes this by including a list of exclusions after the phrase "does not include."

Example

- (3) (a) "Poll worker" means an individual assigned by an election official to assist with election, voting, or counting votes.
- (b) "Poll worker" includes an election judge.
- (c) "Poll worker" does not include a poll watcher.

A legislative drafter may use a catch-all provision at the end of a list to emphasize the non-exclusive nature of



the list or to describe the nature of the included items

Example

(5) "Ballot proposition" means a question, issue, or proposal that is submitted to voters on the ballot for their approval or rejection including:

- (a) an opinion question specifically authorized by the Legislature;
- (b) a constitutional amendment;
- (c) an initiative;
- (d) a referendum;
- (e) a bond proposition;
- (f) a judicial retention question;
- (g) an incorporation of a city or town; or
- (h) any other ballot question expressly authorized by the Legislature.

13. Misused Words and Phrases

a. Affect, Effect

"Affect" (almost always used as a verb) means to have an influence on something.

"Affect" is more commonly used in legislative drafting than "effect."

"Effect" is often used erroneously by drafters when "affect" should be used.

"Effect," when used as a noun, means an outcome or result.

"Effect, when used as a verb, means to make something happen.

Examples

Subsection (3)(a) does not affect the validity of a franchise agreement.

Failure to renew a license has the same effect as a license revocation.

In the preceding example, "effect a transaction" means "to make a transaction occur."

b. After, Following, Subsequent to

Use "after" instead of "following" or "subsequent to."

c. Assure, Ensure, Insure

"Assure" means to make someone feel better.

"Ensure" is means to make sure that something will or

will not happen.

"Insure" means to underwrite financial risk.

d. Attorney Fees

Use the term "attorney fees" instead of "attorneys' fees," "attorney's fees," or "attorneys' fees."

e. Before, Preceding, Prior to

Use "before" instead of "preceding" or "prior to."

f. Biennially, Biannually, Bimonthly, Semiannually, Semimonthly

"Biennially" means every two years. "Biannually" or "semiannually" means twice a year. "Bimonthly" can be interpreted to mean either every two months or twice a month. To avoid confusion, instead of these words, a legislative drafter should consider using a phrase like "every two" or "twice a."

g. Compose, Comprise

"Compose" means "to be a part of." For example, if we are discussing a seven-member committee, seven members "compose" the committee.

"Comprise" means to include or contain. For example, if we are discussing a seven-member committee, the committee "comprises" seven members. Never say the committee is "comprised of" seven members (it is unnecessarily wordy).

h. Consecutive, Successive

"Consecutive" means to follow immediately after without interruption.

"Successive" means to occur after, potentially allowing for intervals or gaps between events.

i. Consider, Deem

Do not use any form of the word "deem." If necessary, use a form of the word "consider" or "determine." Often, these words can be replaced by using an affirmative statement.

Example

Do not say:

The vote described in Subsection (2) is considered to be the final action of the commission.

Instead say:

The vote described in Subsection (2) is the final action of the commission.



j. Described in, in Accordance With, Prescribed in, Pursuant to

When referring to something in another section or subsection, the phrase “described in” is preferred. Use “described in” instead of “prescribed in.”

Though the phrase “prescribed in” references something that is mandatory, the language preceding the use of the phrase, or the referenced provision, will already contain the mandate, making the phrase “prescribed in” unnecessary.

“In accordance with” is used to direct that something be done using a specified multi-step process or in compliance with a set of requirements. “In accordance with” is preferable to “pursuant to,” except in the phrase “pursuant to a court [or administrative] order.” “Described in” is used more commonly than “in accordance with.”

k. Ex Officio

The term "ex officio" when used in the context of membership on a committee, commission, or other body means that the individual is a member of that body because the individual holds a specific office or position. For example, if a statute states that the executive director of the Department of Commerce is a member of a committee, the executive director is an ex officio member. Contrary to popular belief, "ex officio" does not mean that a member is a nonvoting member. A drafter should avoid the use of this term.

l. Farther, Further

"Farther" is used for physical distance. "Further" is used for a figurative distance and applies to time, quantity, or degree.

m. Individual, Entity, Party, Person

Unless expressly defined otherwise for a particular provision or portion of the Utah Code:

“Entity” means a person, other than an individual.

- “Individual” means a human being.
- “Party” means a participant in a legal action or a person bound by contract. The term is not normally used in any other context.
- “Person” means an individual, association, institu-

tion, corporation, company, trust, limited liability company partnership, political subdivision, government office, department, division, bureau, other body of government, and any other organization or entity.

Utah Code Section 68-3-12.5

n. If, When, Where, In the Event of

Don’t use “when,” “where,” or “in the event of” in place of “if.” “When” is used to express time and “where” is used to express location.

o. Notwithstanding

Don’t use the word “notwithstanding” unless referring to a specific provision of the Utah Code. A drafter may be tempted to use the term as a general reference as a shortcut to avoid conflicts with other laws. It is preferable for a drafter to rewrite the section so that there is no conflict or the specify the section to which an exception is made. Only if it is impossible to specify a section that is in conflict should a legislative drafter state that the section supersedes conflicting sections.

p. Promulgate, Adopt, Make

“Adopt” means to make something that already exists yours. “Make” means to create.” Thus, an executive branch agency usually “makes” rules rather than “adopting” them. “Promulgate” is archaic and should not be used.

q. Respectively, As the Case May be

"Respectively" and "as the case may be" are often used improperly. Because of the potential for confusion, the phrases should, if possible, be avoided.

If a drafter desires to apply A to X, B to Y, and C to Z, that may be clarified by stating, "A, B, and C apply to X, Y, and Z, respectively." Here the three relationships are concurrent, not alternative. In this statement, the verb “apply” should be used, because the phrase is plural. However, if a drafter desires to apply A if X occurs, B if Y occurs, or C if Z occurs, the correct statement would be "If X, Y, or Z occurs, A, B, or C applies, as the case may be." Here the three relationships are alternative, not concurrent. In this statement, the verb “applies” should be used, because the phrase is singular.



r. Rule, Regulation

A “rule” is made by a state agency using authority delegated to the agency by the Legislature. Rulemaking authority is governed by Utah Code, Title 63G, Chapter 3, Utah Administrative Rulemaking Act. Normally, a legislative drafter refers to this provision when granting rule-making authority.

However, even if a grant of rulemaking authority does not reference this provision, the requirements of Utah Code, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, still apply to grant of authority.

A legislative drafter should not use the term “regulation” unless referring the federal regulation. State agencies do not make “regulations.”

A legislative drafter should avoid the use of the phrase “rules and regulations.”

s. Said, Same, Such

Instead of using the word “said,” “same,” or “such,” a legislative drafter should use the word “a,” “an,” “that,” or “the,” followed by restating the noun. If this method is not possible, a drafter may use the words “it,” “them,” “these,” “this,” or “those.”

When modifying a preceding term or phrase, “such” may sometimes be used, but it is preferable to find an alternative method of modification. “Such as” and “such a” may be used to introduce an example if an “including” statement or another method is not appropriate.

t. Should, Ought

A legislative drafter should not use the term “should” or “ought” instead of the term “shall,” “must,” or “may” (Utah Code 68-3-12(2)(c)(i)). The term “should” may be used in the following circumstances (Utah Code 68-3-12(2)(c)(ii)):

- To refer to a recommended action, including a provision that an individual shall or may recommend whether an action “should” be taken.
- To indicate an expected standard of knowledge, including a provision that an individual “should” know whether a fact exists or that an action is likely to cause a specified result.

- To refer to a determination as to whether an action “should” have occurred.

Because these situations don’t occur often when drafting, a legislative drafter rarely uses the terms “should” or “ought.” In circumstances where these terms may be used, “should” is preferred to “ought”, because “ought” isn’t defined for purposes of the entire Utah Code.

u. State, State of Utah, Utah

Except in the enacting clause, reference to “the state of Utah” is unnecessary. Because Utah cannot legislate for another state, the terms “state,” “the state,” or “this state” are normally used. When it is necessary to specify the state of Utah, use “this state” or “Utah.” Except in the enacting clause, never use the phrase “state of Utah” in a bill. A legislative drafter may use the phrase “state of Utah” in a resolution.

v. That, Which

The terms “that” and “which” are not interchangeable. The choice between these terms is determined by the type of clause that follows the terms.

“That” is most often used in legislative drafting. Its purpose is to introduce a restrictive clause, or a clause that provides information necessary for full comprehension of the sentence. A restrictive clause is not set off by commas.

“Which” is used to introduce a nonrestrictive clause, or a clause that provides nonessential or parenthetical information. A nonrestrictive clause is set off by commas. Often, in legislative drafting, the nonrestrictive clause is not useful and should not be included.

w. To, Through

“Through” means “to and including” and should be used instead of “to” when referencing a series of three or more statutory provisions. “To” is also problematic in drafting a range of dates.

x. Verbal, Oral

“Verbal” means to use words. If a drafter wants to indicate that something is to be communicated by word of mouth, a legislative drafter should use the word “oral.”

y. Willful, Willfully

There are multiple spellings of the word “willful.” A drafter in the Office of Legislative Research and General



Counsel should use the spelling “willful” and “willfully.”

z. Writing

Utah has adopted the Uniform Electronic Transactions Act which anticipates that commerce and government services could be conducted electronically (See Utah Code Title 46, Chapter 4, Uniform Electronic Transactions Act). In light of this, a drafter should be careful to draft in a media neutral way to allow for electronic transactions, unless the sponsor has a different intention. The Utah Code has defined the term "writing" to include electronic writings (See Utah Code 46-4-502).

14. Numbers

a. In General

i. Beginning a Sentence with a Number

Always spell out a number if it begins a sentence. If a number greater than 100 appears at the beginning of a sentence, the number does not include the word "and" within the number.

Examples

Do not say:

(1) 10 years after . . .

Instead say:

(1) Ten years after . . .

Do not say:

(1) One hundred and fifteen people . . .

Instead say:

(1) One hundred fifteen people . . .

ii. Do Not Follow a Number with a Number in Parenthesis

When a number is spelled out, it should not be followed by a numeral in parenthesis.

iii. Singular v. Plural

A number that is spelled out forms a plural in the same manner as other nouns. However, a reference to dollars uses a singular verb.

Example

Do not say:

There are appropriated \$5,000 to . . .

Instead say:

There is appropriated \$5,000 to . . .

iv. Fractions

A simple fraction, such as one-half, is generally spelled out. An alternative to a fraction is a decimal. If a quantity consists of a whole number and a simple fraction, it can either be spelled out or expressed in numerals. However, it is generally preferred to express the quantity in numerals.

Examples

one-half	4-3/4	1-1/2
two-thirds	six sixty-fourths	one and one-half

v. Compound Number from Twenty-one to Ninety-nine

A hyphen is used when a number is spelled out to begin a sentence. This rule includes both a cardinal or an ordinal number.

Example

Twenty-one . . .	Twenty-first . . .
------------------	--------------------

b. Nine and Under Rule

i. General

Spell out numbers nine and under when enumerating a common noun. Express numbers 10 and above in Arabic numerals.

ii. Exceptions

Notwithstanding the general nine and under rule, use Arabic numbers to express the following.

A. Money

Express money using Arabic numerals. Use the symbol "\$" to express dollars but spell out the word "cents" to express cents.

Example

Do not say:	Instead, say:
Fifty cents	50 cents
Five million dollars	\$5,000,000
\$5.00	\$5

The preference is to use decimals to express cents or tax-related figures, including a tax rate, assessment, or valuation. A fraction is sometimes used to express a tax rate.



Examples

.0032 per assessed dollar valuation	\$5.83
sales tax rate of 5.85%	50 cents
sales tax rate of 5-9/32%	

Do not use zeros after a decimal unless actual cents must be expressed.

In listing monetary amounts in tabular form, however, use both decimals and zeros.

Examples

\$5.25	\$2,100.00	\$194.10
--------	------------	----------

B. Population

Always express population using Arabic numerals.

Examples

- 1,382,600 people
- A city with a population of 100,000 or more

C. Percentage

Express a percentage using Arabic numerals, and use the percentage symbol instead of spelling out the word "percent."

D. Group of Numbers

If a number in a group of numbers exceeds nine, express the group using Arabic numerals. If all numbers in a group of numbers are nine or under, spell out the numbers.

E. Numbers in Tabular Form

When listing numbers in tabular form, use Arabic numerals.

F. Reference to the Utah Code or Other Law

A reference to statute is always drafted with numerals.

G. Terms in Education

Express a grade level using Arabic numerals. Use ordinals only as adjectives and spell them out.

Examples

Do not say:	Instead, say:
grade one	grade 1
kindergarten through grade two	kindergarten through grade 2

students in the 10th through 12th grades

students in the tenth through twelfth grades

c. Measurement

The nine and under rule is usually used when referring to a measurement.

Example

Do not say:

- 40 gallons
- two quarts

Instead, say:

- 500 feet
- six inches

d. Age

The nine and under rule is usually used when referring to age.

Avoid ambiguous expressions of age. The phrase "older than 18 years old" could mean the day after the 18th birthday or the day of the 19th birthday. Instead, depending on the intended meaning, say "18 years old or older" or "19 years old or older."

The term "old" is preferred to the term "of age." Make sure the terms used is used consistently throughout a piece of legislation.

Examples

Do not say:

- If an applicant is more than 21 years old, . . .
- If an applicant is between 21 and 50 years old, . . .

Instead, say:

- If an applicant is 21 years old or older, . . .
- If an applicant is at least 21 years old, but younger than 50 years old, . . .

e. Word Used in Conjunction with a Number

i. "Amount" and "Number"

The term "amount" is used to refer to something as a mass, for example, the "amount of oil."

"Number" is used to refer to individual items, for example, "the number of applicants exceed 500."

ii. "Less" and "Fewer"

"Less" applies to mass nouns or to units and ideas that are not discreet or that cannot be counted, including amount, quality, and size.



Examples

less paper less importance
less water

“Less” also is used with percentages and with terms that indicate units, distance, money, population, or time.*

Examples

less than 5% of the total
less than four years
less than 16 miles
less than \$500,000
a population of less than 300,000

Do not say, “a population of less than 300,000 people,” because this is redundant and confuses the distinction between the mass noun and the discreet items.

“Fewer” applies to readily distinguishable, discreet, or countable units.

Examples

fewer inmates fewer residents
fewer people fewer votes

*The only time “fewer” should be used in referring to units of time is when the amount of time may only be reduced in like units. For example, “five or fewer months” means five months, four months, three months, two months, or one month, but “five months or less” allows for a period of time that is a fraction of months, for example, four months and seven days.

iii. “Funds,” “Money,” and “Monies”

“Funds” should be used to refer to assets that are set apart for a specific purpose or in a specific account. “Money” should be used to refer to cash or a sum of money. Do not use “monies.” “Money” is a plural term for which there is no singular.

f. Date or Time

The following describes the combinations of Arabic numerals and words used to express a date or time.

i. Hour

Never use the phrase “o’clock.” Use “a.m.” or “p.m.” with the exception that “noon” and “midnight” should

be used instead of “12:00 p.m.” or “12:00 a.m.” Do not use a colon to express minutes unless actual minutes are indicated.

Examples

Do not say:	Instead, say:
10:00 p.m.	10 p.m.
---	10:15 a.m.
12 p.m.	noon
12 a.m.	midnight

ii. Time Period

To eliminate uncertainty in expressing a period of time, specify the first and last day of the period. Make clear the first day of the period. Do not use the imprecise terms “from,” “to,” “by,” “between” or “until.”

Examples

Do not say:
July 1, 2022, to July 1, 2023,
Instead, say:
Beginning July 1, 2022, and before July 1, 2023, . . .
or
No sooner than July 1, 2022, and no later than July 1, 2023 . . .

If an act must be done by the end of a time period, the sentence should indicate whether the act must be done before the period begins or whether it must be done within the period.

Examples

Do not say:
Between July 1, 2022, and July 1, 2023,
Instead, say:
Beginning on or after July 1, 2022, and ending on or before June 30, 2023, . . .
or
a taxable year beginning on or after July 1, 2022, but beginning before June 30, 2023, . . .

iii. Date

Express a date simply using common notation. Utah Code 68-3-12.5(16) provides that “month” means a calendar month. For legislative drafting purposes, “week”



also means a calendar week.

A. Day, Week, or Month

If a date is expressed in a whole day, use "day" not "time."

"Time" may be construed as referring to the exact time of day or night.

Examples

Do not say:

Five days after the time when . . .

Instead, say:

Five days after the day on which . . .

A drafter may use a set day of the week to indicate a deadline or other time restraint.

Examples

A licensee shall renew a license each year on the first Monday of April.

When referring to an effective date, use the date itself rather than an ambiguous phrase.

Examples

Do not say:

. . . after this chapter takes effect . . .

Instead, say:

On or after July 1, 2021, the director shall . . .

B. Notice

When referring to providing notice, the time should be followed by an apostrophe (denoting the possessive case).

Examples

. . . shall provide 48 hours' notice . . .

shall provide seven days' notice . . .

C. Specific Dates

When referring to a date, do not use ordinal numbers or subscripts.

Examples

Do not say:

January 1st of each year

Instead, say:

January 1 of each year

If a sentence continues after a date that includes a year, always add a comma after the year.

Examples

Do not say:

On or before January 1, 2020 the commission shall . . .

Instead, say:

On or before January 1, 2020, the commission shall . . .

D. Year

If a time period is expressed in whole years and the context creates no special ambiguity, use the word "year." If a continuous two-year period is intended, use "for a two-year period" rather than "for two years."

If legislation references a time period spanning years (e.g., fiscal years), include only the last two digits of the last year, for example, "Fiscal Year 2019-20."

15. Possessive

Use an apostrophe to indicate only the possessive, either in the singular or plural, as in "director's" or "workers'." If a noun is a compound term, the word nearest to the object being possessed should end in a possessive.

Examples

attorney general's decision

the Speaker of the House's motion

With two or more items in a series, the items that end in a possessive depend on whether the items are so closely linked that they would be considered a unit. If the nouns are considered a single unit, only the last noun takes the possessive form. If the nouns are independent, each noun should take the possessive form.

Examples

the commission and division's joint agreement to . . .

the commission's or division's finding that . . .

Do not use contractions, like "can't" or "doesn't."

Do not confuse "its" with "it's" or "whose" with "who's."

16. Punctuation

Use punctuation with care to accurately reflect legislative intent. Follow generally accepted, standard rules of punctuation in drafting legislation.



a. Colon

Next to a comma, a colon or semicolon is perhaps the most overused or misused punctuation in drafting. The following are basic rules relating to using a colon:

- Use a colon to precede a series of separately listed subsections, sometimes called a list or interlocked unit.
- Use a colon to precede a series of complete sentences when drafting definitions.
- Use a colon at the end of the enacting clause of a bill or a resolving clause of a resolution.
- Use a colon to introduce a long quote.
- Do not use a colon to introduce a proviso, which generally should not be used in drafting.

b. Comma

Use a comma to separate a series of words, phrases, or clauses. When used properly, a comma is a useful drafting tool. However, the overuse or incorrect use of commas is a common error in drafting. A legislative drafter should observe two general rules:

- a comma should be used if it makes the meaning clearer; and
- a comma should not be used if it interrupts the thought of a sentence.

i. Series

Use a comma to separate words and phrases in a series, including the word or phrase immediately before the conjunction. This is known as an “Oxford” or a “serial” comma.

ii. Successive Adjectives

Use a comma between adjectives preceding a noun that are coordinating, qualifying words.

iii. Nonrestrictive Appositives

Use a comma to set off nonrestrictive appositives. These are nouns or pronouns placed next to other nouns or pronouns that add nonessential details about the noun or pronoun.

Example

The director, who is appointed by the governor, shall keep a record of . . .

Nonrestrictive appositives are not used very often in legislative drafting. If needed, it is preferred that the

information in a nonrestrictive appositive be stated in a separate sentence.

iv. Nonrestrictive Adjective Clause

Use a comma to set off a nonrestrictive adjective clause. This is a clause that describes but does not limit the meaning of something.

Example

The county treasurer shall transfer from the fund account, which contains revenues from the fees collected, \$150,000 to the General Fund.

Nonrestrictive adjective clauses are not used very often in legislative drafting. If needed, it is preferred that the information in a nonrestrictive adjective clause be stated in a separate sentence.

Do not use a comma to set off a restrictive adjective clause. This is a clause that is needed to make the meaning clear. “Which” is used when a relative clause conveys additional information or is parenthetical. “That” is used when the clause is restrictive.

v. Parts of a Compound Sentence

Use a comma between the parts of a compound sentence when punctuation is needed for clarity or to provide an additional idea. A compound sentence contains two or more independent clauses connected by a conjunction.

Example

The division shall fund the program from the division’s general operations budget, but may not expend less than \$100,000 on the program.

If a dependent clause or introductory phrase precedes an independent clause, a comma is not needed after the dependent clause or introductory phrase.

Example

The individual who serves as the executive secretary of the commission may hire additional clerical assistance as necessary.

Normal usage permits placing a comma before a conjunction that connects two independent clauses, each having a subject and a predicate. Often, however, an independent clause is sufficiently long to justify making it a separate sentence. In this case, use two separate



sentences rather than two independent clauses connected by a comma, because the use of two independent clauses makes the sentence too long and difficult to follow.

Do not use a comma to separate the parts of a compound sentence if the clauses are short and closely related.

Do not use a comma between the verbs of a compound predicate. This is a simple sentence that contains two or more verbs with the same subject.

vi. Introductory or Transitional Word or Phrase

Use a comma to set off an introductory or transitional word or phrase. This includes using a comma after an introductory participial or absolute phrase.

Examples

In the case of an emergency, the governor may . . .

After the votes are counted, the election judge shall seal the election pouch.

Do not use a comma to set off restrictive participial phrases. This is a phrase that is essential to the meaning of the sentence.

Example

An individual seeking to practice in Utah shall apply with the division for a license.

vii. Contrasted Word or Phrase

Use a comma to set off a contrasted word or phrase.

Example

A majority of the members shall set a meeting of the commission, not the chair.

viii. Qualifying Language that Applies to a Preceding Clause

Use a comma to indicate that qualifying language applies to all of a preceding clause. However, it may be preferable to place the qualifying language first.

Example

The division may receive additional information from an applicant in writing or by oral testimony, unless the divi-

ix. When the Day of the Month is Included in a Date

If the day of the month is stated in a date, use a comma before and after the year.

Example

This bill takes effect on July 1, 2022, and is repealed on June 30, 2023.

A comma is not needed if the day is omitted.

x. Whole Numbers Comprising Four or More Digits

Use a comma in whole numbers comprising four or more digits.

xi. Clarity

Use a comma to set off words, phrases, and clauses that would otherwise be unclear.

Example

Do not say:

When I was to begin the speech ended.

Instead, say:

When I was to begin, the speech ended.

c. Hyphen

A hyphen should be used sparingly in drafting. The most important considerations in determining whether to hyphenate are clarity and consistency.

Appendix B contains additional information on the use of hyphens.

d. Parentheses

Avoid parentheses except for use in a form, table, or chart.

In general, a word or phrase should be set off by commas rather than by parentheses.

e. Semicolon

The following are basic rules relating to using a semicolon.

i. Series

The most common proper use of a semicolon in legislative drafting is at the end of each segment of a list or interlocked unit containing dependent clauses or incomplete sentences.



Example

(1) A person does not commit an offense under this section if the person:

- (a) receives a certificate of authority; and
- (b) displays the certificate of authority at the person's principal place of business.

ii. Other Uses of a Semicolon

In addition to use in a series, a semicolon is used in drafting to separate paragraphs of a resolution beginning with "WHEREAS," except that the last paragraph ends in a colon.

In traditional legal writing, a semicolon is also used to separate two main clauses that are not joined by a conjunction, or elements, such as items in a series, which themselves contain commas. These uses in legislative drafting are discouraged. It is usually clearer to use separate sentences than to combine ideas using a semicolon.

17. Symbols

Although in rare circumstances a symbol may be necessary (for example, see Utah Code 58-37-4), in general, a symbol that is not otherwise approved by this manual for use in drafting legislation, including, *, #, &, and @, should not be used.

18. Tables

When using a table, work closely with the document technicians to ensure that the table works not only in the actual legislation, but also in a final statutory printing of the table.

Example

(1) Subject to Subsection (2), for calendar years beginning on or after January 1, 2023, a claimant may claim a homeowner's credit that does not exceed the following amounts:

If household income is	Homeowner's credit
\$0 -- \$9,159	\$798
\$9,160 -- \$12,214	\$696
\$12,215 -- \$15,266	\$597
\$15,267 -- \$18,319	\$447

\$18,320 -- \$21,374	\$348
\$21,375 -- \$24,246	\$199
\$24,247 -- \$26,941	\$98

19. Time

Be precise when referring to time. Use the terms "after" and "before" instead of "to," "until," "by," or "between."

a. After

If something is required after one or more days, use the phrase "after the day on which."

Example

Do not say:

Within three days after receiving notice, the division shall . . .

Instead, say:

Within three days after the day on which the division receives notice, the division shall . . .

In the preceding example, the first sentence is imprecise, because it could mean three days after the end of the day on which notice is received, or it could mean 72 hours after notice is received. The second sentence clearly indicates that the three-day period begins after the end of the day on which notice is received. If an actual 72-hour period is intended, express the time frame by referring to hours.

Example

Within 72 hours after the division receives notice, the division shall . . .

b. Before

If something is required to happen before a certain day or time, be specific regarding when the deadline comes to an end.

Examples

The individual shall submit the application within 90 days before the day on which . . .

. . . before 5 p.m. on the third Tuesday following the second Monday in July.

The division shall present the report on or before July 31, 2022.



c. Between

If something is required to happen after a certain time, but before a later time, be specific regarding the starting and ending time.

Examples

The individual shall submit the application no sooner than the day on which . . . , but no later than the day on which . . .

. . . on or after January 1, and on or before March 1

The division shall present the report on or before July 31, 2022.

Avoid vague phrases like “three days from the day on which.” This phrase does not clearly indicate whether the phrase is referring to before an event, after an event, or both.

d. Currently

Do not refer to something existing or happening “currently,” because it is unclear whether this is referring to the time the statute was enacted, the time an individual is reading the provision, or some other time.



Chapter 4 — Anatomy of a Bill

LEGISLATIVE DRAFTING MANUAL | DECEMBER 2023

1. In General

When drafting a bill, a legislative drafter is required to comply with Utah Constitution, Article VI, Section 22:

“Except general appropriation bills and bills for the codification and general revisions of laws, no bill shall be passed containing more than one subject, which shall be clearly expressed in its title.”

The title comprises all portions of the short and long title. A legislative drafter should draft this combined title to comply with the clear title requirements of the Utah Constitution. This chapter describes each portion of a bill and requirements related to each portion.

2. Bill Heading

a. Short Title

The first part of a bill’s title is the short title. It appears in the first line the bill heading.

i. In General

The short title of a bill is a simple, politically neutral phrase that describes the overall the subject matter of the bill. The short title is assigned by the Office of Legislative Research and General Counsel. The short title is capitalized, bolded, and is placed at the top of the bill. It should be broad enough to encompass the entire bill but need not be overly broad. The short title must be different from all other short titles used during the same legislative session.

ii. Changing a Short Title

Before a bill is numbered, a legislative drafter may change the short title originally assigned to a bill request in order to accurately reflect the subject matter of the bill. After numbering, a legislative drafter should change a short title, if necessary, to correctly reflect the subject matter of the bill when it is substituted or amended.

b. Remainder of Bill Heading

Immediately following the short title, a bill heading contains:

- the year and legislative session type

- the phrase “State of Utah”
- the sponsor's name, after the heading "Chief Sponsor:"
- if the bill has passed one house of the Legislature, the name of the opposite house sponsor after the heading “Senate Sponsor:” or “House Sponsor:”
- a list of any cosponsors

3. Long Title

a. In General

The bill heading is followed by the long title. The long title is not a bill summary within the traditional meaning of that term. Rather, it is a description of the areas of code affected, a brief description of the main provisions or subject matter of the bill, a description of any appropriations in the bill, special clauses, and an enacting clause.

The long title is usually drafted after the legislative drafter finishes drafting the body of the bill.

b. Changing a Long Title

A legislative drafter should amend the long title of a bill, as necessary, to correctly reflect changes made to the body of the bill in an amendment or a substitute.

c. Committee Note

A committee note only appears on legislation that is recommended by an interim committee. A committee note appears at the beginning of the long title.

d. General Description

The next portion of a long title (or the first if the bill lacks a committee note) is the general description. The general description is usually a single sentence that broadly describes the subject matter of the bill or the general area of the Utah Code affected. When referring to an area of the code in the general description, use the name (and not the number) of the title, chapter, or part.

e. Highlighted Provisions

Immediately following the general description is the highlighted provisions portion of the bill. This portion of the bill begins with the phrase “This bill:” followed by



one or more statements, in a bulleted list, high-lighting the main provisions or general topics of the bill. It is not a detailed summary but should be a fair and accurate overview that does not omit significant matters addressed by the bill. Highlighted provisions should not contain a lot of detail.

Example

Do not say:

- ▶ changes the deadline to submit a petition from February 15 to March 15;
- ▶ changes the deadline to submit a signature packet from April 1 to May 1;

Instead say:

- ▶ changes submission deadlines for a petition and a signature packet;

The broader statement in the above example puts the reader on notice that the deadlines have changed while avoiding an unnecessarily lengthy description or requiring a long title change if the dates in the bill are altered by amendment or substitute.

f. Money Appropriated in this Bill

The next heading that appears in a long title is "Money Appropriated in this Bill." If the bill does not contain an appropriation, the heading is followed with the word "None." If the bill contains an appropriation, the description begins with the phrase "This bill appropriates in the fiscal year [insert fiscal year]:" followed by one or more bullets describing the appropriation.

Example

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2024:

- ▶ to the State Board of Regents – Administration – Administration, as an ongoing appropriation:
 - from the General Fund, \$10,000.
- ▶ to the State Board of Regents – Administration – Administration, as a one-time appropriation:
 - from the General Fund, \$40,000.

g. Other Special Clauses

The next heading is "Other special clauses," followed either by the word "None" or by a description of each

special clause included in the body of the bill as uncodified text. Special clauses appear in the following order.

- Severability
- Intent (this is extremely rare)
- Effective date (immediate, delayed, or split)
- Retrospective operation
- Uncodified repeal date
- Revisor Instructions
- Coordination clause

Examples

Other Special Clauses:

- This bill provides a severability clause.
- This bill provides a statement of legislative intent.
- This bill provides a special effective date.
- This bill provides for retrospective operation.
- This bill provides a repeal date.
- This bill contains revisor instructions.
- This bill contains a coordination clause.

h. Utah Code Sections Affected

i. In General

A bill includes a list of the sections affected by the bill. The sections appear, in numerical order and in the order of the following headings:

- Amends
- Enacts
- Repeals and Reenacts
- Renumbers and Amends
- Repeals
- [amends, enacts, etc.] an uncodified provision

ii. Legislative History of a Codified Section

In a list of sections affected, a section's most recent legislative history is printed immediately following the section affected. Because the Utah Code was last codified in 1953, a section in effect in 1953 that has not been amended reflects the 1953 codification as the section's legislative history.

If a section is enacted or amended after 1953, the legislative history refers to the chapter in the Laws of Utah that contains the most recent change to the section, regardless of how many times the section has been



amended. If more than one chapter in the Laws of Utah amends a section during the same legislative session, each chapter that amends the section is listed in numerical order.

iii. Legislative History of an Uncodified Section

In the unusual case when new substantive material is enacted and is not codified in the Utah Code, the list of sections affected indicates that uncodified material is being enacted. This does not apply to uncodified material that is a special clause.

Example

Uncodified Material Affected:
ENACTS UNCODIFIED MATERIAL

In the extremely rare case where an uncodified provision is being amended by a bill, the list of sections affected cites to the Laws of Utah where the amended provision appears.

Example

Uncodified Material Affected:
AMENDS UNCODIFIED MATERIAL:
Laws of Utah, 1983, Chapter 343, Uncodified Section 49

i. Utah Code Sections Affected by Revisor Instructions

If a bill contains a revisor instruction, the long title lists the sections affected by the revisor instruction.

j. Utah Code Sections Affected by Coordination Clause

If a bill contains a coordination clause, the long title lists the sections affected by the coordination clause.

4. Body of a Bill

The body of the bill begins with an enacting clause.

Example

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

Immediately after the enacting clause, the remainder of the body of the bill comprises the subject matter of the bill and contains substantive law. Only this part of the bill is included in the Utah Code. The main body is divided into separate sections in numerical order, except that a code section being repealed by the bill is listed, by section number, in the last section of the body of the bill.

A section of a bill begins by designating the section of the code being affected and whether the bill amends, enacts, repeals and reenacts, or renumbers and amends the code section. The legislative history is not included as part of the section designation.

After the section designation, and with the exception of a repealed section, a statute being affected is printed in its entirety with deletions and additions indicated.

Example

Section 1. Section **10-5-104** is amended to read:

Section 8. **Repealer.**

This bill repeals:

Section **23-20-11, Possession or use of weapons by persons under the influence.**

a. Amending

To amend a provision of existing law:

The entire section of code where a change is to be made is brought into the bill, even if only a small change is being made to that section.

Deleted text appears between brackets and the deleted text is shown struck through.

Inserted text is underlined.

If inserted text is immediately adjacent to deleted text, the inserted text usually appears immediately after the deleted text. An exception is sometimes made to this rule for the sake of readability.

A legislative drafter changes the section's boldface, as necessary, to accurately reflect the modified version of the section. Because a section's boldface is not law, changes to the boldface are not reflected by underlining, bracketing, or strikeout.

b. Enacting

To enact a new section into law:

- The legislative drafter verifies that the new section number has not been used before (i.e. the new section number is not the same number as a previously repealed section).
- The new section number and the entire text of the new section is underlined.
- The legislative drafter creates the section's boldface to accurately reflect the content of the new section.



The boldface is not underlined.

c. Repealing and Reenacting

Repealing and reenacting means that a section is repealed and entirely rewritten in the same bill without changing the subject of the section. Repealing and reenacting is used when so many changes are made to an existing section of law that very little of the original text will remain in the section. Repealing and reenacting may not be used if the subject of the section changes.

When a section is repealed and reenacted, the deleted text is not shown in the bill. Rather, the text is removed entirely and replaced with new text as if the section is newly enacted. This makes it more difficult to track the changes being made to existing law and more difficult to conduct research on the section’s legislative history. For these reasons, a legislative drafter should avoid the practice of repealing and reenacting unless the normal amendment process will necessarily result in deleting almost all existing text in a section.

To repeal and reenact a section:

- The existing section number and the entire text of the section is underlined.
- The legislative drafter creates the section’s boldface to accurately reflect the content of the section. The boldface is not underlined.

d. Renumbering and Amending

Renumbering and amending is used to move an existing code section to another part of the code. This is usually done when a legislative drafter recodifies a portion of the code or moves the responsibility for an existing provision of law from one government agency to another government agency. A section is considered renumbered and amended even if the section is only renumbered and no changes are made to the text of the section. Re-numbering and amending cannot be used to extract the contents of two or more sections and put them into one, split one section into two or more sections, or renumber a section to be the same number as an existing section.

To renumber and amend:

- The existing section number is bracketed and shown struck through.

- The new section number is underlined.
- The entire section appears in the bill, even if the only thing that changes is the section number.
- Deleted text appears between brackets and the deleted text is shown struck through.
- Inserted text is underlined.
- If inserted text is immediately adjacent to deleted text, the inserted text usually appears immediately after the deleted text. An exception is sometimes made to this rule for the sake of readability.
- A legislative drafter changes the section’s boldface, as necessary, to accurately reflect the modified version of the section. Because a section’s boldface is not law, changes to the boldface are not reflected by underlining, bracketing, or strikeout.

e. Repealing

The text of a section to be repealed does not appear in the bill. Rather, each section repealed by a bill is listed in the last section of the main body of the bill, together with the boldface of the section.

Example

Section 8. **Repealer.**

This bill repeals:

Section 23-20-11, Possession or use of weapons by persons under the influence.

If an entire chapter or part of the Utah Code is repealed, in addition to checking cross references for the sections being repealed, a legislative drafter should also check cross references to the chapter or part being repealed, including the name of the chapter or part, if any.



Chapter 5 — Anatomy and Use of a Resolution

LEGISLATIVE DRAFTING MANUAL | DECEMBER 2023

1. Purpose of a Resolution

A resolution is never used to amend the Utah Code, but it may be used for one of several other purposes, including:

- An expression of policy – For example, to express an opinion on an issue of statewide or national importance or to approve, encourage, or discourage action by another entity.
- Proposing an amendment to the Utah Constitution to be submitted to a vote of the people (see Utah Constitution, Article XXIII).
- Amending a legislative rule.
- Amending a court rule of procedure or evidence (see Utah Constitution, Article VIII, Section 4).
- Submitting a nonbinding opinion question on the voters.
- Approving a specific action.
- Acting on a federal constitutional issue – For example, ratifying an amendment to the Constitution of the United States or calling for a constitutional convention of the states.

2. Citation

A citation, rather than a resolution, is specified by legislative rule as being the exclusive form used to commemorate or memorialize a person or event, or to express commendation or condolences (HR1-7-101 and SR1-7-101). A citation can be approved by an individual legislator or by one or both houses of the Legislature (HR1-7 or SR1-7). An individual citation requires no floor action and can be prepared throughout the year (HR1-7-102 or SR1-7-102).

A citation is prepared by the Chief Clerk of the House of Representatives or Secretary to the Senate in the form specified by legislative rule (HR1-7 or SR1-7). A legislator may make a motion on the floor of the House of Representatives to approve a citation and authorize the Speaker of the House to sign the citation on behalf of the House of Representatives (HR1-7-103). A legislator

may make a motion on the floor of the Senate to approve the citation and authorize the President of the Senate to sign the citation on behalf of the Senate (SR1-7-103). Because the offices of the Senate and House of Representatives prepare a citation and control its form, this manual does not address the format of a citation.

3. Types of Resolutions

a. Single House Resolution

A single house resolution is a resolution passed by one house of the Legislature to express the opinion of that house or to take action on a particular matter by that house. For example, the House of Representatives would amend House rules by passing a House resolution. Similarly, the Senate would amend Senate rules by passing a Senate resolution.

b. Joint Resolution

A joint resolution requires passage by both houses of the Legislature. Legislative action that requires a joint resolution includes the following:

- Proposing an amendment to the Utah Constitution to be submitted to a vote of the people.
- Amending a joint legislative rule.
- Amending a court rule of procedure or evidence.
- Submitting a nonbinding opinion question on the voters.

c. Concurrent Resolution

A concurrent resolution requires passage by both houses of the Legislature and the approval of the governor.

4. Anatomy of a Resolution

A description of each portion of a resolution and the requirements related that portion are described below.

a. Resolution Heading

i. Short Title

The first part of a resolution's title is the short title. It appears in the first line the resolution heading. The short title is a brief phrase that describes the purpose of the resolution. The short title of a resolution must contain the word "resolution."



ii. Remainder of Resolution Heading

Immediately following the short title, a resolution heading contains:

- the year and legislative session type
- the phrase “State of Utah”
- the name of the sponsor of the resolution, after the heading "Chief Sponsor:"
- if the bill has passed one house of the Legislature, the name of the opposite house sponsor after the heading “Senate Sponsor:” or “House Sponsor:”
- a list of any cosponsors

b. Long Title

i. General

The resolution heading is followed by the long title. The long title is a brief description of the main provisions or subject matter of the resolution and any special clauses, and a resolving clause. The long title is usually drafted after the legislative drafter finishes drafting the body of the resolution.

ii. Changing a Long Title

A legislative drafter should amend the long title of a resolution, as necessary, to correctly reflect changes made to the body of the resolution in an amendment or a substitute.

iii. Committee Note

A committee note only appears on legislation that is recommended by an interim committee. A committee note appears at the beginning of the long title.

iv. General Description

The next portion of a long title (or the first if the resolution lacks a committee note) is the general description. The general description is usually one sentence in length and generally describes the subject matter or effect of the resolution.

v. Highlighted Provisions

Immediately following the general description is the highlighted provisions portion of the resolution. This portion of the resolution begins with the phrase “This resolution:” followed by one or more statements, in a bulleted list, high-lighting the main provisions or general topics of the resolution. It is not a detailed summary but

should be a fair and accurate overview that does not omit significant matters addressed by the resolution. Highlighted provisions should not contain a lot of detail.

vi. Special Clauses

The next heading is “Special Clauses,” followed either by the word “None” or by a description of each special clause included in the body of the resolution.

vii. Provisions Affected

Certain resolutions include in the long title a list of the provisions affected by the resolution.

A policy-related resolution does not contain a “provisions affected” clause because it does not affect a constitutional provision or a rule.

Examples

Utah Constitution Sections Affected:

REPEALS AND REENACTS:

ARTICLE XI, SECTION 6

Utah Rules of Evidence Affected:

AMENDS:

Rule 702, Utah Rules of Evidence

Legislative Rules Affected:

AMENDS:

JR3-2-901

JR4-3-108

ENACTS:

JR1-1-103

5. Body of a Resolution

a. Resolving Clause

The body of the resolution begins with a resolving clause. The language of a resolving clause varies, depending on the type of resolution, as follows:

- Single house resolution – “Be it resolved by the House of Representatives of the state of Utah:” or “Be it resolved by the Senate of the state of Utah:”
- Joint resolution – “Be it resolved by the Legislature of the state of Utah:”
- Joint resolution requiring two-thirds vote – “Be it resolved by the Legislature of the state of Utah, two-thirds of all members elected to each of the two



houses voting in favor thereof.”

- Concurrent resolution – “Be it resolved by the Legislature of the state of Utah, the Governor concurring therein:”

b. Body of a Resolution

Immediately after the resolving clause, the remainder of the body of the resolution comprises the subject matter of the resolution and is divided into a preamble and a resolution statement.

i. Preamble

A preamble states the reason, purpose, or policy of a resolution and requires a drafting style that is more elaborate than for bills. The preamble of a resolution is often longer than the resolution statement. A preamble consists of clauses separated into paragraphs.

To draft a preamble:

- Begin each clause with "WHEREAS,"
- End each clause, other than the last two clauses, with a semicolon.
- End the next to last clause with “; and”
- End the last clause with a colon.

Examples

WHEREAS, residents of mobile home parks have expressed concern regarding what these residents believe are overly restrictive park leases;

WHEREAS, mobile homes are subject to regulation by the state; and

WHEREAS, the state recognizes the need for mobile home park leases and rules that promote harmony and fairness between park owners and residents:

ii. Resolution Statement

For a policy-related resolution, the resolution statement is separated into paragraphs that end with a period. The first paragraph begins with one of the following, depending on the type of resolution:

- Single house resolution – “NOW, THEREFORE, BE IT RESOLVED that the House of Representatives of the state of Utah:” or “NOW, THEREFORE, BE IT RESOLVED by the Senate of the state of Utah:”
- Joint resolution – ““NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah:”

- Joint resolution requiring two-thirds vote – “NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, two-thirds of all members elected to each of the two houses voting in favor thereof:”
- Concurrent resolution – “NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein:”

Subsequent paragraphs begin with the capitalized phrase “BE IT FURTHER RESOLVED”.

Examples

NOW, THEREFORE, BE IT RESOLVED that the Legislature of the state of Utah, the Governor concurring therein, urge the United States Congress to approve the upgrading of the 300-mile segment of road between Interstate 15 in southern Utah and Interstate 17 in Arizona.

BE IT FURTHER RESOLVED that copies of this resolution be forwarded to the Speaker of the United States House of Representatives, the Majority Leader of the United State Senate, and to the members of Utah's congressional delegation.

7. Distribution of a Resolution

A resolution encouraging action is usually distributed to the persons or entities urged to take the action. This type of resolution should include a resolution statement detailing the distribution of the resolution. The distribution of a resolution is governed by JR4-1-303. If a resolution urges action by the United States House of Representatives, the United States Senate, or the United States Congress as a whole, distribution to those entities may only be sent to the following:

The Utah congressional delegation.

- The speaker of the United States House of Representatives.
- The majority leader of the United States Senate.
- A member of the appropriate U.S. House or U.S. Senate committee or subcommittee.

To reduce expense and other burdens, distribution of a resolution should be limited. For example, a resolution encouraging other state legislatures to take action should be sent to the speaker and president of those legislatures rather than to each member of each state



7. Distribution of a Resolution

A resolution encouraging action is usually distributed to the persons or entities urged to take the action. This type of resolution should include a resolution statement detailing the distribution of the resolution. The distribution of a resolution is governed by JR4-1-303. If a resolution urges action by the United States House of Representatives, the United States Senate, or the United States Congress as a whole, distribution to those entities may only be sent to the following:

- The Utah congressional delegation.
- The speaker of the United States House of Representatives.
- The majority leader of the United States Senate.
- A member of the appropriate U.S. House or U.S. Senate committee or subcommittee.

To reduce expense and other burdens, distribution of a resolution should be limited. For example, a resolution encouraging other state legislatures to take action should be sent to the speaker and president of those legislatures rather than to each member of each state legislature.

8. Effective Date of a Resolution

Most resolutions take effect immediately after approval by, depending on the type of resolution, an individual house, both houses, both houses and the governor, or both houses and the voters (JR4-1-302). Some resolutions require a special effective date:

- A contingent effective date is used for a resolution proposing an amendment to the Utah Constitution.
- A resolution amending a rule of procedure or evidence should contain a special effective date.
- Other resolutions, if a later effective date is desired.



Chapter 6 — Appropriations

LEGISLATIVE DRAFTING MANUAL | DECEMBER 2023

1. In General

Most appropriations are made in omnibus appropriations bills. A legislator who desires that an appropriation be included in an omnibus appropriations bill should file a request for appropriation with the Legislative Fiscal Analyst's Office.

Occasionally, a legislator requests that an appropriation be included in the bill to which the appropriation relates. This chapter addresses the drafting of those types of appropriations. Appropriations in omnibus appropriations bills may, in some respects, vary from the style described in this chapter.

Examples of each appropriation type are included in Appendix C.

2. Appropriation Types

There are seven types of appropriations (described below). The language used in an appropriation depends on the type of appropriation being made. Most of the appropriations drafted by the Office of Legislative Research and General Counsel are those listed in a, b, and c. If a drafter is uncertain which appropriation type to use, the drafter should consult with the Fiscal Analyst's Office.

a. Operating and Capital Budgets

An *operating and capitol budgets* appropriation is the most common type of appropriation. This includes appropriations made from the General Fund, the Education Fund, or a restricted account to a state agency for expenditure in a state program.

b. Restricted Fund and Account Transfers

A *restricted fund and account transfers* appropriation authorizes the Division of Finance to transfer money from a fund or account to a restricted fund or account (for example, from the General Fund to a General Fund – Restricted Account).

Expenditures from a restricted account to which the money is transferred must be authorized separately, using an operating and capitol budgets appropriation.

c. Expendable Funds and Accounts

An *expendable fund and accounts* appropriation authorizes the Division of Finance to transfer money from a fund or account to an expendable fund or account (for example, from the General Fund to an expendable special revenue fund).

Expenditures from an expendable fund or account to which the money is transferred may be made without further legislative appropriation, in accordance with statutory provisions relating to the fund or account.

d. Transfers to Unrestricted Funds

A *transfer to unrestricted funds* appropriation authorizes the Division of Finance to transfer money from a restricted fund or account to the unrestricted General Fund, Education Fund, or Uniform School Fund. Expenditures from the General Fund, Education Fund, or Uniform School Fund to which the money is transferred must be authorized separately by another type of appropriation.

e. Capital Project Funds

A *capitol project funds* appropriation authorizes the Division of Finance to transfer money from a fund or account to a capital projects fund. Capital projects funds are a specific fund type set up for infrastructure projects, such as the DFCM Capital Projects Fund, the DFCM Prison Project Fund, or the Transportation Investment Fund of 2005.

f. Business-like Activities

A *business-like activities* appropriation (in accordance with Utah Code 63J-1-410) approves budgets, full-time permanent positions, and capital acquisition amounts for internal service funds and appropriates estimated revenue to the funds from rates, fees, and other charges.

g. Fiduciary Funds

Though classified as an appropriation, a *fiduciary funds appropriation* is simply an indication that the Legislature has reviewed proposed revenues, expenditures, and



fund balances for fiduciary funds. Fiduciary funds are used to account for assets held in trust by the state, such as the Navajo Royalties Holding Fund or the State Hospital Patient Trust Fund.

3. Parts of an Appropriation

a. Long Title

The long title of a bill includes a heading entitled “Money Appropriated in this Bill.” Because most appropriations are not included directly in the bill to which the appropriation relates, this heading is usually followed by “None.”

Format

Money Appropriated in this Bill:

- ▶ This bill appropriates in fiscal year [Designate Year]: to the [Department Name] – [Line Item Name] – [Program Name] as an ongoing [or a one-time] appropriation:
 - from the General Fund [or General Fund, Onetime], \$ [Designate Amount].

Examples

Money Appropriated in this Bill:

- ▶ This bill appropriates in fiscal year 2024: to the Governor’s Office - Lieutenant Governor’s Office, as a one-time appropriation:
 - from the General Fund, One-time, \$500,000.

b. First Paragraph

An appropriation appears at the end of a bill in a separate section of the bill. The first paragraph of an appropriation begins with the following two sentences:

Format

Section. ____ . Appropriation

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

** Note: The second sentence is not included in a base budget bill.*

If an appropriation contains more than one appropriation type in the same fiscal year, it is not necessary to repeat the first two sentences for each appropriation type.

The first two sentences are followed by one of the following, depending on the appropriation type.

i. Operating and Capital Budgets

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

ii. Restricted Fund and Account Transfers

“The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.”

iii. Expendable Funds and Accounts

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

iv. Transfers to Unrestricted Funds

“The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated.

Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.”

v. Capital Project Funds

“The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.”



vi. Business-like Activities

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

vii. Fiduciary Funds

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

c. Operative Language

The next portion of appropriation describes the appropriation line item, source(s) of an appropriation, the amount appropriated from each source, and the destination of the appropriation. For multiple appropriations or multiple appropriation types, this portion may be divided into subsections and items as shown in the examples in Appendix C.

d. Intent Language

i. In General

The last part of an appropriation often includes intent language to describe the intended use of the funds appropriated. Intent language must have a direct connection to the appropriation itself and should avoid including language that would normally be included in statute.

ii. Permissible Intent Language

A. To Specify Use

Intent language may specify the use of an appropriation by an agency or program.

Examples

The Legislature intends that \$250,000 of the appropriation be spent for increasing the production of native fish within the Community Fisheries Program.

B. To Designate Funds as Non-lapsing

Intent language may be used to designate all or part of the appropriation as non-lapsing. For example, a one-time appropriation of funds to acquire computer equip-

ment may be non-lapsing to allow a portion of the purchase to occur in the fiscal year after the fiscal year for which it is appropriated. In order for non-lapsing status to be valid, the funds must be designated as such in the appropriation or in Utah Code Section 63J-1-502, *et. al.*

Example

The Legislature intends that, under Utah Code Section 63J-1-603, appropriations under this section not lapse at the close of Fiscal Year 2023.

C. To Limit the Use of Non-lapsing Funds

In addition to specifying the intended use of appropriated funds, an appropriation should also specify the Legislature’s intent regarding the use of non-lapsing funds.

Example

The Legislature intends that the use of any nonlapsing funds is limited to funding the digitizing of documents generated by former Utah governors for preservation and access.

D. Expenditure of Contingent Revenue

Intent language may also be used to authorize or direct the expenditure of contingent revenue

E. Study

Intent language may be used to direct an agency or office to conduct a study. The language should specify the person required to conduct the study, set a deadline for completion of the study, and report the results of the study to a specified legislative body. The intent language should not require a specific action or result. Rather, the legislative body that receives the report can make recommendations based on the study results.

Examples

The Legislature intends that the state court system examine the possibility of establishing an electronic filing system that could be used for most, if not all, documents filed within the state court system, and, on or before [Date], report to the Executive Appropriations Committee when the system could be in place, how much it would cost, and whether a self-funded system is a feasible alternative.

(Continued on page 42)



(Continued from page 41)

Examples

The Legislature intends that the Office of the Legislative Fiscal Analyst examine whether the cost of computer legal research can be reduced and report on the examination results to the [name of appropriations subcommittee] on or before [Date].

iii. Prohibited Intent Language

Certain language should not be included in the intent language, or any other portion, of an appropriation. Some examples follow.

A. Language Amending, Enacting, or Repealing Substantive Law

Do not amend, enact, or repeal, substantive law through intent language.

Example

Do not say:

The Legislature intends that a candidate for state office report campaign contributions on October 15 in addition to other dates required by law.

Instead:

Via a bill, add the new date for reporting contributions to the existing code provision that specifies the dates when reporting is required.

iii. Prohibited Intent Language

Certain language should not be included in the intent language, or any other portion, of an appropriation. Some examples follow.

A. Language Amending, Enacting, or Repealing Substantive Law

Do not amend, enact, or repeal, substantive law through intent language.

B. Language that Violates Procurement Law

Intent language may not be used to specify a nongovernment entity that will receive money from an appropriation or to otherwise bypass requirements of procurement law.

C. Language that Violates Separation of Powers

While the Legislature may, by law, give direction to entities in other branches, intent language may not be used

to micro-manage those branches in a manner that violates the separation of powers.

4. Other Matters Related to Appropriations

a. Negative Appropriations

A negative appropriation (i.e. removing money previously appropriated) is indicated by placing the amount in parentheses. For example, "\$(\$7,000)" means that \$7,000 that was previously appropriated is now being removed. One of the more common situations where this occurs is when money is being moved from one account or program to another account or program.

b. Nonlapsing Funds

i. In General

Most appropriations are lapsing (meaning any unspent appropriated funds lapse back into the General Fund at the end of the fiscal year for which they were appropriated). It is assumed that an appropriation to any entity outside the legislative branch is nonlapsing unless expressly provided otherwise.

ii. Designating Funds as Nonlapsing

A. Previously Appropriated Funds

Section 63J-1-603 imposes requirements on agencies that want to use funds that were appropriated for, but will not be used during, the current fiscal year. This takes the form of a request to designate the excess funds as nonlapsing (i.e., funds that can be carried over to the next fiscal year). Funds that are designated as nonlapsing under this process will only be carried over to the subsequent fiscal year. If these funds are not expended during that subsequent fiscal year, they will lapse, unless an additional request to designate the funds as nonlapsing is approved for an additional fiscal year.

B. Appropriations for Future Fiscal Year

A designation of nonlapsing is usually made for excess funds previously appropriated for the current fiscal year. Attempts to designate funds for future fiscal years (any fiscal year after the one we are currently in, including the fiscal year that begins July 1 following the upcoming general session) as non-lapsing is discouraged. However, this may be done in limited circumstances with the approval of general counsel. A bill that designates an ap-



appropriation as nonlapsing must comply with the requirements of Subsection 63J-1-602(2)(a) or, for an appropriations bill, (2)(b):

“(2) No appropriation from a fund or account or appropriation to a program may be treated as nonlapsing unless:

(a) it is listed in Section 63J-1-602.1 or 63J-1-602.2;

(b) it is designated in a condition of appropriation in the appropriations bill; or

(c) nonlapsing authority is granted under Section 63J-1-603.”

Nonlapsing status is usually applied to appropriations from accounts, not to the accounts themselves. Funds in a restricted account are already statutorily required to remain in the account under Subsection 63J-1-104(3)(b):

“Revenues in a restricted account or fund do not lapse to another account or fund unless otherwise specifically provided for by law or legislative appropriation.” If an appropriation is nonlapsing, the intent language should state that the appropriation is nonlapsing, not the fund or account from which the appropriations are made.

A drafter may add intent language to an appropriation to designate all or part of the appropriation as nonlapsing.

c. Appropriations to Legislature

Appropriations to the Legislature, the House, the Senate, or staff offices of the Legislature are always nonlapsing. Thus, it is not necessary to specify this in an appropriation to a legislative body.



1. Terms

The following describes terms related to conflicts, composites, and coordination clauses.

a. Backstop Rule

When enacted language from one bill (Bill A) is inserted into repealed language in another bill (Bill B) and both bills pass and become law before the conflict is resolved, the repealed language (in Bill B) will take precedence, and the enacted language (in Bill A) will not appear in the composite section. This rule is a last resort and should not be relied on to resolve a substantive conflict.

b. Composite

When two or more bills that amend the same section of code become law, the amendments are merged into a composite section. This process occurs after the session in which both bills pass when the code is prepared for publication.

c. Coordination Clause

A coordination clause is a special clause that expresses the Legislature's intent regarding how conflicting amendments should merge if the relevant conflicting bills pass and become law.

d. Nonsubstantive Conflict

A nonsubstantive conflict occurs when conflicting amendments do not change the intent of one or more of the bills and do not affect the application or meaning of the law.

e. Revisor's Authority

Revisor's authority is the statutory authorization in Utah Code Subsection 36-12-12(4) for the office to correct technical errors, prepare the laws for publication, and modify the electronic record to correct technical errors.

f. Revisor Instructions

Revisor instructions clarify the Legislature's intent that certain technical changes be made to a single piece of legislation after it passes and becomes law (as opposed to coordinating multiple bills).

g. Substantive Conflict

A substantive conflict occurs when conflicting amendments change the intent of one or more of the bills or affect the application or meaning of law.

h. Technical Conflict

A technical conflict occurs when the mechanics of the amended language conflict, and the merged language would be nonsensical or result in an unintended meaning. Technical conflicts can be substantive or nonsubstantive.

2. Conflicts Overview

Two or more bills conflict:

- when, if the bills pass and become law, the merged language would be technically or substantively nonsensical, illogical, or repetitious; or
- when an action on a section in one bill (e.g., repealing a section) conflicts with the action on the same section in a different bill (e.g., an amendment).

To address these issues, after the bills are numbered, the legal research assistants track all instances in which two or more bills affect the same section during a session. If the bills appear to conflict, the legal research assistants notify the drafting attorney, who is then responsible for making a determination about the conflict and resolving the conflict, if necessary, before the session ends. Before both bills pass, a drafter will typically resolve the conflict by substitute, amendment, or coordination clause to one or more of the bills.

The process of tracking and resolving conflicts must occur before the session ends. After the session ends, an attorney will create a composite of all changes to each section to prepare the code for publication.

3. Substantive, Nonsubstantive, or Technical Conflicts

The descriptions of substantive, nonsubstantive, and technical conflicts at the beginning of this chapter are necessarily imprecise. A drafter should use the drafter's discretion, in consultation with the drafters of the conflicting bills or the bills' sponsors, when necessary, to determine the nature and resolution of a conflict.



a. Technical Conflict Example

Example

Bill A

(1) As used in this section, “minor” means ~~[a male or female under 18 years of age]~~ an individual that is 16 or 17 years old.

Bill B

(1) As used in this section, “minor” means ~~[a male or female]~~ an applicant for a marriage license under 18 years of age.

Bills A and B Merged

(1) As used in this section, “minor” means ~~[a male or female under 18 years of age]~~ an individual that is 16 or 17 years old an applicant for a marriage license.

The composite for Bills A and B (which is created by removing the repealed language and inserting the enacted language) would be nonsensical; the amendments do not technically merge. In addition to the technical conflict, the above amendments are arguably substantive and could affect the intent of the bills. Because of this, the drafter should resolve the conflict before both bills pass, through substitute, amendment, or coordination clause. If the drafter fails to do this, the backstop rule would apply and the version in Bill A would trump Bill B because the new language in Bill B is “straddled” by the repealed language (which takes precedence) in Bill A. In this case, relying on the backstop rule is not the best option and should be avoided.

b. Nonsubstantive Conflict Example

Example

Bill A

(1) (a) The Health Facility Committee created by Section 26-1-7 consists of ~~[15]~~ 11 members appointed by the governor ~~[with the consent of the Senate]~~ in consultation with the executive director.

Bill B

(1) The Health Facility Committee created by Section 26-1-7 consists of 15 members appointed by the governor with the advice and consent of the Senate.

Bills A and B Merged

(1) (a) The Health Facility Committee created by Section 26-1-7 consists of ~~[15]~~ 11 members appointed by the governor ~~[with the advice and consent of the Senate]~~ in consultation with the executive director.

The first step in reviewing a conflict is to determine whether the conflict is nonsubstantive or if there is a substantive component. In the example above, the change in Bill B is nonsubstantive language made throughout code for uniformity. The intent of Bill B is not affected by the repeal in Bill A. Therefore, no further action needs to be taken as the backstop rule will be applied when the sections are merged during composites.

c. Substantive Conflict Example

Example

Bill A

(2) A school district or charter school shall prepare and submit an annual school plant capital outlay report ~~[in accordance with Section 63A-1-202]~~ to the state auditor on or before a date designated by the state auditor.

Bill B

~~[(2)]~~ (3) A school district or charter school shall annually prepare and submit to the state board:
(a) an annual school plant capital outlay report in accordance with Section 63A-1-202~~[-];~~ and
(b) the first year of an educational facilities plan prepared in accordance with Section 53E-3-708.

Bills A and B Merged

~~[(2)]~~(3) A school district or charter school shall annually prepare and submit to the state board:
(a) an annual school plant capital outlay report ~~[in accordance with Section 63A-1-202]~~ to the state auditor on or before a date designated by the state auditor~~[-];~~ and
(b) the first year of an educational facilities plan prepared in accordance with Section 53E-3-708.

In this example, if both bills pass, the sections technically merge during the composite process, but the language may not substantively make sense. The amend-



ments in Bill A direct a school district or charter school to submit a report to “the state auditor” while the amendments in Bill B direct the same entity to submit the same report to “the state school board.”

In this instance, the drafter would need to work with the sponsors and, if necessary, draft a substitute, amendment, or coordination clause.

4. Conflicts Caused by a Bill’s Action

The table in Appendix D shows the result of two actions taken to the same section by different bills. Certain actions from one bill supersede conflicting actions in another bill.

5. Conflicts Procedure

This section describes the current process for checking conflicts. As the conflicts program is integrated with the Hermes program over the next few years, the process will change.

a. Master Conflicts List

Bill and Data Management daily produces a master conflicts list of all sections that are affected by two or more bills. A bill or substitute will not appear on the master list until it is numbered or adopted.

b. Initial Review and Conflicts Report

Every day during a session, the legal research assistants review all sections on that day’s master conflicts list and compare the sections to determine if there is a conflict. When sections appear to have a definite or potential conflict, the legal research assistants compile a conflict report for each of the drafters whose bill presents a conflict. A conflict report includes:

- a copy of the section from each of the bills affected by the conflict; and
- a cover sheet describing the conflict.

c. Final Review

The drafter reviews the conflict report to determine whether there is a definite conflict and whether a substitute, amendment, or a coordination clause needs to be drafted. After the drafter makes these determinations, the drafter communicates relevant information regarding the conflict to the legal research assistants. The drafter may communicate the information by any

means.

Every drafter is responsible for tracking conflicts that have been sent to the drafter, using whatever method the drafter prefers.

6. Failure to Resolve a Conflict

a. Action When Conflict Is Not Resolved

Failure to resolve a conflict by substitute, amendment, or coordination clause can result in confusion regarding the Legislature’s intent. The general counsel has revisor authority that can be used to resolve conflicts in this situation, but this authority is limited. Even if resolving the conflict is possible using revisor authority, there is a strong preference for avoiding situations where the use of this authority is necessary.

b. Backstop Rule for Technical Conflicts During Composite Process

A common technical conflict occurs when enacted language in one bill (Bill A) is being inserted into language that is repealed in another bill (Bill B). In this scenario, if both bills pass and become law, the repeal of the language (in Bill B) will take precedence, and the enacted language (in Bill A) will not appear in the composite section. If applying the backstop rule to amendments from two bills would endanger the intent of either bill, the conflict must be resolved in advance of the bills’ passage through substitute, amendment, or coordination clause.

7. Coordination Clauses

a. Difference Between a Coordination Clause and a Revisor Instruction

The purpose of a coordination clause or a revisor instruction is to express legislative intent. A coordination clause clarifies how the Legislature intends conflicting bills to merge if the conflicting bills pass and become law. Revisor instructions clarify the Legislature’s intent that certain technical changes be made to a single piece of legislation after the legislation passes (as opposed to coordinating multiple bills).

b. Coordination Clauses in General

Before drafting a coordination clause, determine whether the conflict can be resolved by substituting or amend-



ing one of the conflicting bills in a way that resolves the conflict while still accomplishing the intent of the sponsors. If this is not possible, a coordination clause may be necessary to indicate the manner in which the Legislature intends the conflicting provisions of the bill to merge if both bills pass and become law.

In most cases, the coordination clause only needs to be added to one of the bills affected by the coordination clause in order to be effective if all of the affected bills pass and become law. On very rare occasions, three or more conflicting bills may need to be coordinated. This can become extremely complicated (for more information, see Chapter 7, Section 7.e. “Coordinating Three or More Bills” and Appendix L).

A legal research assistant must review all coordination clauses before they are added to a bill, except in extremely rare circumstances in which a rush substitute must be made public immediately. In this case, the drafter must ensure that a legal research assistant reviews the coordination clause after the substitute is made public.

c. Timing of a Coordination Clause

Deciding when to add a coordination clause to a bill requires the drafter's discretion. A coordination clause must be added to a bill, at the earliest, when the second bill is numbered and, at the latest, before the second bill passes. (In extenuating circumstances, a bill can be recalled, but that should be avoided when at all possible.)

A drafter may wait to draft a coordination clause until the conflicting bills pass the originating house and a committee hearing in the opposite house. This avoids having to draft multiple versions of a coordination clause as the bills are substituted and amended during the legislative process. However, keep in mind that this will require the bill to which the coordination clause is added to return to the originating house for concurrence.

It is critical that the drafting attorney for each conflicting bill continue to monitor the need for a coordination clause or to change a coordination clause if the Legislature amends or substitutes a conflicting bill.

Never add a coordination clause via an amendment.

d. Drafting a Coordination Clause

Because issues raised by coordination clauses vary widely, a legislative drafter has flexibility as to the form of the coordination clause and should focus on the clarity of the instructions. Following are principles for drafting a coordination clause to ensure proper implementation.

If conflicting provisions in a section are limited to a specific subsection, the coordination clause should, to the extent possible, refer to only that subsection rather than the entire section. When a *subsection* that is renumbered in a bill is the subject of a coordination clause, the drafter should, for the sake of uniformity, refer to that subsection by the new subsection number unless doing so would make the clause unclear.

When a *section* that is renumbered in a bill is the subject of a coordination clause, the drafter should list the old references as well as the new references and specify the bill in which the renumbering is taking place.

Example

“... changes to Section 53-2d-104 (renumbered from 26-8a-103) in S.B. 64 supersede the changes in S.B. 38.”

A coordination clause never refers to a substitute. Rather, it simply refers to the short title and number of the bill, regardless of whether it was substituted.

Examples of coordination clauses are included in Appendix E.

i. Long Title

When a drafter adds a coordination clause to a bill, Hermes will automatically add the following to the long title of the bill:

- Under the heading “Other Special Clauses”: “This bill provides a coordination clause.”
- Under the heading “Utah Code Sections Affected by Coordination Clause”: a list of all sections affected by the coordination clause, regardless of whether the sections are in the bill containing the coordination clause.

When sending a draft out for approval, please double-check that the list of “Utah Code Sections Affected by Coordination Clause” in the long title is accurate.



ii. Boldface

The boldface of a coordination clause begins with the bill section number and a designation of the bills being coordinated, with the bill to which the drafter adds the coordination clause listed first.

Example

(Coordination clause added to H.B. 37)

Section 4. Coordinating H.B. 37 with H.B. 162.

iii. Introductory Statement

The introductory statement of a coordination clause includes, first, the number and short title of the bill containing the coordination clause, followed by the number and short title of the bill (or bills) with which the bill coordinates. The introductory statement concludes with “the Legislature intends...” and the date that the provisions in the coordination clause take effect (this date should always be the latest effective date of the bills being coordinated), followed by a description of the Legislature’s intent (or, if necessary, a colon, followed by subsequent paragraphs that contain a description of the Legislature’s intent).

Example

(Coordination clause added to H.B. 37)

If H.B. 37, Voter Signature Verification Amendments, and H.B. 162, Voter Accessibility Amendments, both pass and become law, the Legislature intends that, on May 3, 2023, . . .

iv. Statement of Legislature’s Intent

The drafter expresses the Legislature’s intent using a clear, concise statement of the manner in which the Legislature intends the bills to merge (i.e., the manner in which the conflicting provisions or language will be resolved).

e. Coordinating Three or More Bills

On rare occasions, three or more conflicting bills may need to be coordinated. A drafter should consider all possible outcomes and determine whether all or only a certain combination of the bills will conflict if they pass. A coordination clause is necessary for each possible con-

flicting combination. For example, if there are three bills (A, B, and C), the drafter will need to consider the following potential scenarios:

Potential Scenario	Bill Containing the CC
Bills A, B, and C all pass	Bill A, B, or C
Bills A and B pass, but Bill C does NOT pass	Bill A or B only
Bills A and C pass, but Bill B does NOT pass	Bill A or C only
Bills B and C pass, but Bill A does NOT pass	Bill B or C only

The boldface for each coordination clause should indicate to which scenario the clause applies. (See, e.g., Chapter 7, Section 7.f.ix., “Three or More Bills.”)

Coordinating more than three bills will exponentially increase the potential scenarios, quickly making it untenable to resolve the conflict via a coordination clause. See Appendix L.

f. Standard Format for a Coordination Clause

Though there are occasionally exceptions, drafters can draft most coordination clauses using one of the following formats. Even when using a standard format, slight variations in language may be necessary for the sake of clarity.

i. To Read

A. If Referencing an Existing Section or Subsection.

I. Amending Language

Section __. Coordinating H.B. X with S.B. Y.

If H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature that, on [date which the direction that follows takes effect], [Section or Subsection] be amended to read:

II. Replacing Language

Section __. Coordinating H.B. X with S.B. Y.

If H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], the following language replace the changes made to [Section



or Subsection] in [H.B. X] and [S.B. Y]:

B. If Referencing a Section or Subsection Enacted by One of the Bills.

Section __. Coordinating H.B. X with S.B. Y.

If H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], [Section or Subsection] in [reference bill where the section or subsection is enacted] be enacted to read:

ii. Inserting New Language

Section __. Coordinating H.B. X with S.B. Y.

If H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], the following language be inserted as [Subsection]:

iii. Superseding

Section __. Coordinating H.B. X with S.B. Y.

If this H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], the amendments to [Section or Subsection] in S.B. Y supersede the amendments to [Section or Subsection] in H.B. X.

iv. Renumbering

Section __. Coordinating H.B. X with S.B. Y.

If this H.B. X, [short title], and S.B. Y, [short title] Title, both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], [Section or Subsection] [amended/enacted] by S.B. Y be renumbered to [Section or Subsection].

v. Cross References

Section __. Coordinating H.B. X with S.B. Y.

If this H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], the references in this bill to [Section or Subsection] change to reference [Section or Subsection].

vi. Changing Terminology

A. Coordinating With Another Bill or Bills

Section __. Coordinating H.B. X with S.B. Y.

If this H.B. X, [short title], and S.B. Y, [short title], both

pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], all references to the term "ABCD" in S.B. Y change to "EFGH".

B. Coordinating With All Other Conflicting Bills

Section __. Coordinating S.B. X with other [specify session] legislation.

The Legislature intends that, on [date which the direction that follows takes effect], all references to the term "ABCD" change to "EFGH" in any new language added to the Utah Code by legislation that passes in the [specify session] and becomes law.

vii. Changing Effective Dates

Section __. Coordinating H.B. X with S.B. Y.

If this H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], the effective date of the [amendments to/enactment of] [Section] made by S.B. Y change to [new effective date].

viii. Omitting Substantive Changes

A. Changes Don't Take Effect

Section __. Coordinating H.B. X with S.B. Y.

If this H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], the changes in S.B. Y to the following sections not be made:

B. Deleting Enacted Language

Section __. Coordinating H.B. X with S.B. Y.

If this H.B. X, [short title], and S.B. Y, [short title], both pass and become law, the Legislature intends that, on [date on which the direction that follows takes effect], [Subsection] enacted by S.B. Y be deleted and the remaining subsections renumbered accordingly.

ix. Coordinating Three or More Bills

The following would be added to H.B. X only:

Section __. Coordinating H.B. X with S.B. Y and H.B. Z if all pass and become law.

If this H.B. X, [short title], S.B. Y, [short title], and H.B. Z, [short title], all pass and become law, the Legislature intends that, on [date on which the direction that follows takes effect], [Section or Subsection] in H.B. X be



amended to read:

The following would be added to H.B. X only:

Section __. Coordinating H.B. X with S.B. Y if H.B. Z does not pass and become law.

If this H.B. X, [short title], and S.B. Y, [short title], both pass and become law, and H.B. Z, [short title], does not pass and become law, the Legislature intends that, on [date on which the direction that follows takes effect], [Section or Subsection] in H.B. X be amended to read:

The following would be added to H.B. X only:

Section __. Coordinating H.B. X with H.B. Z if S.B. Y does not pass and become law.

If this H.B. X, [short title], and H.B. Z, [short title], both pass and become law, and S.B. Y, [short title], does not pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], [Section or Subsection] in H.B. X be amended to read:

The following would be added to S.B. Y or H.B. Z only (it cannot be added to H.B. X because it addresses the scenario of H.B. X not passing and the coordination clause needs to pass):

Section __. Coordinating S.B. Y with H.B. Z, if H.B. X does not pass and become law.

If this S.B. Y, [short title], and H.B. Z, [short title], both pass and become law, and H.B. X, [short title], does not pass and become law, the Legislature intends that, on [date which the direction that follows takes effect], [Section or Subsection] in S.B. Y be amended to read:

8. Revisor Instructions

a. Difference Between a Revisor Instruction and a Coordination Clause

Revisor instructions clarify the Legislature's intent that certain technical changes be made to a single piece of legislation after the legislation passes (as opposed to coordinating multiple bills), while a coordination clause clarifies how the Legislature intends conflicting bills to merge if the conflicting bills pass and become law.

b. Revisor Instructions in General

Revisor instructions are only needed when the necessary changes:

- are not expressly authorized already under Utah

Code Subsection 36-12-12(4);

- require an expression of legislative intent to make the needed change; and
- do not give instructions for changes to other legislation.

A legal research assistant must review all revisor instructions before they are added to a bill, except in extremely rare circumstances in which a rush substitute must be made public immediately. In this case, the drafter must ensure that a legal research assistant reviews the revisor instruction after the substitute is made public.

c. Revisor Instructions — Overlap with Revisor's

Authority

If the office is explicitly and unambiguously authorized to make a technical change under Utah Code Subsection 36-12-12(4), the drafter does not need to include a revisor instruction in the relevant bill to make that change. For example, revisor instructions are not necessary when:

- substituting the proper calendar date in the database and in the Laws of Utah (see Utah Code Subsection 36-12-12(4)(l));
- technically renumbering (see Utah Code Subsections 36-12-12(4)(b) and (h)); or
- substituting the proper section or chapter number for the terms “this act,” “this bill,” or similar terms (see Utah Code Subsection 36-12-12(4)(k)).

Rather than adding revisor instructions to make the above changes, the drafter should simply email the necessary changes to the BDM supervisor to ensure the changes will be made.

d. Revisor Instructions — Overlap with Coordination Clauses

If the necessary change affects legislation generally, the drafter should address this change through a coordination clause rather than revisor instructions. To illustrate, see the example in Chapter 7, Section 7.f.vi.B., “Changing Terminology.”

e. Standard Format for Revisor Instructions

It is rare that revisor instructions will be necessary, but when they are, use the following format:



Section __. Revisor instructions.

The Legislature intends that Section 26-47-100 be re-numbered to Section 26-47-101.



Chapter 8 — Entities

LEGISLATIVE DRAFTING MANUAL | DECEMBER 2023

1. Government Bodies

a. In General

Legislation may create a variety of government bodies, including boards, commissions, committees, councils, task forces, or working groups. These bodies may have authority granted to them or may simply serve in an advisory capacity. Additionally, these bodies may exist entirely within one branch of government or, in limited circumstances, may include members of more than one branch of government.

- When creating a government body, a drafter should consider the following:
- the purpose of the body;
- the authority to be granted to the body;
- where the body should be placed (e.g. within a certain agency or in a certain title, chapter, or part of the Utah Code);
- the membership of the body (including the number of members and their qualifications);
- whether members serve because of government positions currently held or whether they are appointed;
- for appointed members, who appoints, for how long of a term, and whether and how a member can be removed before the end of the member’s term;
- whether a member receives compensation or reimbursement for per diem or expenditures;
- who provides staff support to the body;
- whether the body dissolves after a certain period of time;
- how many members constitute a quorum and how many votes are required for the body to take action;
- how often meetings are held;
- how a chair is selected and how long the chair serves; and
- whether a member is limited to a certain number of consecutive terms.

b. Ex Officio v. Nonvoting Member

In addition to specifying the intended use of appropriated funds, an appropriation should also specify the Legislature’s intent regarding the use of non-lapsing funds.

An ex officio member is a member who serves because of a position that member holds. For example, a statute may designate that one member of a committee is the director of the Division of Substance Abuse and Mental Health. That individual is an ex officio member because the individual is a member only because, and while, the individual is the director of that division.

Some people erroneously assume that ex officio means nonvoting, but an ex officio member may be a voting or non-voting member. If a drafter intends an ex officio member (or any other member) to be a nonvoting member, the drafter should expressly state that in the legislation.

c. Legislative Bodies

i. In General

Legislative bodies include committees, task forces, and working groups. Standing and interim committees are created by legislative rule. A task force is usually created by statute. A working group is often created by motion of a committee and meets informally on a specific matter that is brought back to the committee for review and action.

ii. Committees

A legislative committee, other than a standing committee or an interim committee, may be codified in Title 36, Legislature. Examples include the Legislative Process Committee, the Native American Legislative Liaison Committee, and the Occupational and Professional Licensure Review Committee. While these committees may include members who are not members of the Legislature, legislators should constitute a majority of the members. Membership on a legislative committee usually provides for bi-partisan or multi-partisan membership.

The Legislature, or a house of the Legislature, may also



b. Independent State Agency

i. Characteristics

An independent state agency has a public purpose relating to the state or the state’s citizens but is independent of the governor’s direct supervisory control. An independent state entity is owned by the public and exercises the powers granted via statute. Examples of independent state agencies include:

- Heber Valley Historic Railroad Authority
- School and Institutional Trust Fund Office
- School and Institutional Trust Lands Administration
- Utah State Railroad Museum Authority
- Utah Beef Council
- Utah Communications Authority
- Utah Dairy Commission
- Utah Energy Infrastructure Authority
- Utah State Retirement Office

ii. Governance

An independent state agency is governed by an executive director along with a commission, council, or board. An independent state agency is subject to review and recommendation by the Retirement and Independent Entities Interim Committee.

iii. Liability

An independent state entity may be sued in the name of the agency. Depending on the enabling statute for the independent state agency, the state may be liable for the obligations, expenses, debts, and liabilities of the agency.

iv. Ownership of Assets

The state owns the assets of an independent state agency.

v. Reorganization

The Retirement and Independent Entities Interim Committee may recommend reorganization of an independent state agency and the Legislature may reorganize the agency.

vi. Application of State Laws

State laws are presumed to apply to independent state agencies, but the authorizing statute of each agency often provides specific exemptions. The Retirement and

Independent Entities Interim Committee is authorized to recommend to the Legislature regarding which state laws each independent state agency should be subject to or exempt from.

c. Public Corporation

i. Characteristics

A public corporation has a specific public purpose but is independent of the governor’s direct supervisory control. In addition to being created by statute, a public corporation obtains corporate status under Utah law governing corporations. Examples of public corporations include:

- Military Installation Development Authority
- Utah Housing Corporation
- Utah State Fair Corporation

ii. Governance

A public corporation is governed by a board of directors. A public corporation is subject to review and recommendation by the Retirement and Independent Entities Interim Committee.

iii. Liability

A public corporation may sue or be sued in the name of the corporation and the state is not liable for the corporation’s obligations, expenses, debts, or liabilities.

iv. Ownership of Assets

The statute creating the public corporation should address whether the assets of the corporation are owned by the corporation, the shareholders, or the state.

v. Reorganization

The Retirement and Independent Entities Interim Committee may recommend reorganization of a public corporation independent state agency and the Legislature may reorganize the agency. To reorganize, the corporation must first go through the legal process of dissolving.

vi. Application of State Laws

While a public corporation is normally required to comply with Title 52, Chapter 4, Open and Public Meetings Act, and Title 63G, chapter 2, Government Records Access and Management Act, many state laws are presumed to not apply to the corporation. The statute creating the public corporation should specify the provi-



sions of law that apply and that don't apply to the public corporation.

d. Quasi-public Corporation

i. Characteristics

A quasi-public corporation has a specific public purpose but is independent of the governor's direct supervisory control. In addition to being created by statute, a quasi-public corporation obtains corporate status under Utah law governing corporations. A quasi-public corporation is different from a public corporation in that it is privately owned. The Utah Capital Investment Corporation is an example of a quasi-public corporation.

ii. Governance

A quasi-public corporation is governed by a board of directors. A quasi-public corporation is subject to review and recommendation by the Retirement and Independent Entities Interim Committee.

iii. Liability

A quasi-public corporation may sue or be sued in the name of the corporation and the state is not liable for the corporation's obligations, expenses, debts, or liabilities.

iv. Ownership of Assets

The statute creating the public corporation should address whether the assets of the corporation are owned by the corporation, the shareholders, or the state. This can vary depending on the public purpose, structure, and funding of the quasi-public corporation.

v. Reorganization

The Retirement and Independent Entities Interim Committee may recommend reorganization of a public corporation independent state agency and the Legislature may reorganize the agency. To reorganize, the quasi-public corporation must first go through the legal process of dissolving.

vi. Application of State Laws

While a quasi-public corporation is normally required to comply with Title 52, Chapter 4, Open and Public Meetings Act, and Title 63G, chapter 2, Government Records Access and Management Act, many state laws are presumed to not apply to the corporation. The statute creating the quasi-public corporation should specify

the provisions of law that apply and that don't apply to the public corporation.

e. Other Considerations

i. Legal Representation

A statute creating an independent entity should specify if the entity will have independent legal counsel rather than representation by the attorney general's office.

ii. Participation in State Services

A statute creating an independent entity should specify whether the entity may participate in certain state resources, which may include:

- the state retirement system;
- state fuel dispensing;
- the state motor pool;
- state surplus property;
- state risk management;
- state information technology services; or
- state archives.

iii. Legislative Audit

An independent state entity is subject to legislative audit.

iv. Other Legal Requirements

Utah Code Section 63E-1-302 addresses requirements for the creation of an independent entity.

Utah Code Section 63E-1-403 addresses requirements for privatizing an independent entity.



Chapter 9 — Penalties

1. Criminal Penalty

a. Preferred Format for a Criminal Provision

A criminal provision is drafted differently than any other provision of Utah Code. Part of the reason for this is to enable law enforcement and the courts to more easily track charges and convictions through a software application. Thus, a criminal provision contained in Title 76, Utah Criminal Code, should always be in the format described in this Subsection (1)(a). For criminal provisions in other titles, a drafter is encouraged, to the extent reasonably practicable, to follow the same format.

i. Format Description

A. Subsection (1)

Subsection (1) should always be a definition section. Every criminal provision, even those outside of the Utah Criminal Code, should contain at least the following in the definition section, “Terms defined in Section 76-1-101.5 apply to this section.” If this creates a problem due to a particular definition used in Section 76-1-101.5, the drafter may include an exception to the problematic provision.

Example

- (1)(a) As used in this section, “possession” means . . .
- (b) Except as provided in Subsection (1)(a), terms defined in Section 76-1-101.5 apply to this section.

B. Subsection (2)

Subsection (2) should contain all elements of the offense and only the elements of the offense.

C. Subsection (3)

Subsection (3) should contain the penalties for the offense and only the penalties for the offense.

D. Subsequent Subsections

Following Subsection (3), the requirements are less rigid. A drafter is encouraged to include limitations or exceptions, if any, in Subsection (4), but this is not required. The remainder of the section may include additional information related to penalties or other related

B. Subsection (2)

Subsection (2) should contain all elements of the offense and only the elements of the offense.

C. Subsection (3)

Subsection (3) should contain the penalties for the offense and only the penalties for the offense.

D. Subsequent Subsections

Following Subsection (3), the requirements are less rigid. A drafter is encouraged to include limitations or exceptions, if any, in Subsection (4), but this is not required. The remainder of the section may include additional information related to penalties or other related matters.

ii. Stand-alone Sections

In order to ensure compliance with the format discussed above, when drafting a criminal provision in title 76, Utah Criminal Code, a drafter should include each crime in a separate section. For criminal provisions in other titles, a drafter should consider whether it makes sense, in the context of related provisions, to follow the same practice.

b. Examples of Criminal Provisions in Preferred Format

Example

76-5-102. Assault -- Penalties.

- (1) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits assault if the actor:
 - (a) attempts, with unlawful force or violence, to inflict bodily injury on an individual; or
 - (b) commits an act, with unlawful force or violence, that:
 - (i) causes bodily injury to an individual; or
 - (ii) creates a substantial risk of bodily injury to an individual.
- (3)(a) A violation of Subsection (2) is a class B misdemeanor.
- (b) Notwithstanding Subsection (3)(a), a violation of



Subsection (2) is a class A misdemeanor if:

- (i) the actor causes substantial bodily injury to an individual; or
- (ii) the individual is pregnant and the actor has knowledge of the pregnancy.

(4) The fact that the actor caused serious bodily injury to an individual is not a defense to a violation of this section.

Example

76-5-102.8. Disarming a peace officer -- Penalties.

- (1) (a) As used in this section:
 - (i) "Conductive energy device" means a weapon that uses electrical current to disrupt voluntary control of muscles.
 - (ii) "Firearm" means the same as that term is defined in Section 76-10-501.
- (b) Terms defined in Section 76-1-101.5 apply to this section.
- (2) An actor commits disarming a peace officer if the actor intentionally takes or removes, or attempts to take or remove a firearm or a conductive energy device from an individual or the immediate presence of an individual who the actor knows is a peace officer:
 - (a) without the consent of the peace officer; and
 - (b) while the peace officer is acting within the scope of the peace officer's authority as a peace officer.
- (3) (a) A violation of Subsection (2) regarding a Firearm is a first degree felony.
- (b) A violation of Subsection (2) regarding a conductive energy device is a third degree felony.

c. Examples of Criminal Provisions in Outside Title 76, Utah Procurement Code

Outside Title 76, Utah Procurement Code, an existing criminal provision might appear as follows:

Example

In Section 20A-2-301:

- (3) A person shall provide all completed voter registration forms in the person's possession to the county clerk at or before 5 p.m. on the day of the voter registration deadline.
- (4) It is unlawful for any person in possession of a completed voter registration form, other than the person's own completed voter registration form, to willfully fail or refuse to timely deliver the Completed voter registration form to the county clerk.
- (5) A person who violates Subsection (4) is guilty of a class B misdemeanor.

A drafter could move the portion of the section that establishes a criminal provision into a separate, stand-alone section, as follows:

Example

In 20A-2-301, leave this:

- (3) A person shall provide all completed voter registration forms in the person's possession to the county clerk at or before 5 p.m. on the day of the voter registration deadline.

In a separate section (for example Section 20A-2-301.1), draft this:

- (1) As used in this section . . .
- (2) It is unlawful for any person in possession of a completed voter registration form, other than the person's own completed voter registration form, to willfully fail or refuse to timely deliver the completed voter registration form to the county clerk.
- (3) A person who violates Subsection (2) is guilty of a class B misdemeanor.

d. Crimes with the Same or Similar Elements

When drafting a criminal provision, determine whether another criminal provision has the same or similar elements. If two criminal provisions have the same ele-



ments, but different penalties, there can be confusion regarding the Legislature’s intent. The courts have developed a test to address this situation (see *State v. Ainsworth*, 423 P.3d 1229 (Utah 2017)), but it is much better if the legislative intent is clearly expressed in the statutory language.

e. Cannot Delegate Authority to Set Criminal Penalty

When drafting a criminal provision do not delegate the authority to determine a criminal penalty. This is an essential legislative function that cannot be delegated by the Legislature. See *State v. Green*, 793 P.2d 912, 916 (Utah Ct. App. 1990), *Peck & Sons v. Public Service Comm’n*, 700 P.2d 1119, 1123 (Utah 1985); *State v. Gallion*, 572 P.2d 683, 688 (Utah 1977).

f. Criminal Intent

Proof that a person committed a crime generally requires proof of an *actus reus*, a wrongful act that comprises the physical component of a crime, and *mens rea*, a mental state or criminal intent. Criminal intent is often not stated expressly as an element of a crime. Where the intent is not expressly stated, proof of a culpable mental state of intent, knowledge, or recklessness is sufficient. A crime of specific intent requires proof of the specified culpable mental state, e.g., intentionally, knowingly, recklessly, or with criminal negligence (Utah Code 76-2-101 and 76-2-102). On extremely rare occasions, a crime can be one of strict liability (Utah Code 76-2-102).

g. Vagueness

To avoid a challenge that a statute is unconstitutionally vague, be careful to clearly define the conduct prohibited and any exceptions intended. Do not draft provisions that generally state that a violation of any provision of a title, chapter, or part is a crime.

h. Level of a Penalty

Always specify the level of a penalty. A penalty may be an infraction (technically not a crime), a class A, B, or C misdemeanor; a first, second, or third degree felony; or, in rare cases, a capital felony. There are also several

penalty enhancements.

i. Felonies

Classification of felonies – Utah Code 76-3-103

Penalties for noncapital felonies – Utah Code 76-3-203

ii. Misdemeanors

Classification of misdemeanors – Utah Code 76-3-104

Penalties for misdemeanors – Utah Code 76-3-204

iii. Infractions

Infractions not classified – Utah Code 76-3-105

Penalties for infractions – Utah Code 76-3-205 and 76-3-301

iv. Criminal Fines and Special Sanctions

See Title 76, Chapter 3, Part 3, Fines and Special Sanctions

v. Differing From Standard Penalties

When specifying the level of a penalty, it is rare to specify a penalty different from standard penalty provided for a penalty of that level. In the rare case that a different penalty is specified, the penalty provision should state that, and the manner in which, the general penalties are superseded.

Example

(3) A violation of Subsection (2) is a third degree felony, except that, notwithstanding Section 76-3-301, the fine is not less than \$1,000, and not more than \$5,000.

i. Person v. Individual

Take care in the use of the terms “person” or “individual” when drafting a criminal provision. Some criminal acts may be committed only by or against an individual (i.e. a human being) while others may be committed by or against an individual or an entity (e.g. a corporation, organization, government entity, etc.). Use “person” only if the actor or victim referred to can be either an individual or an entity. If the actor or victim referred to can only be a human being, use “individual.” The term “actor” may be used to refer to an individual, an entity, or both. Obviously, a victim should never be referred to as an “actor.”



2. Civil Penalty

a. Drafting a Civil Penalty

A civil penalty provision should:

- identify the actor;
- identify the violation;
- identify the penalty;
- make the punishment specific to the proscribed conduct; and
- identify the individual or entity responsible for imposing the penalty.

Example

(3) The division shall impose a civil penalty of \$500 for each violation of Subsection (2).

A civil penalty is not limited to a fine. For example, a civil penalty may take the form of a license suspension or revocation.

Example

(3) The division may revoke the license of an individual who violates a provision of Subsection (2).

b. Due Process

If a statute imposes a civil penalty for a violation of law, the state is required to provide a due process procedure for imposing the penalty. At a minimum, this means that the alleged violator must be given notice and an opportunity to be heard concerning the enforcement of the civil penalty.

Utah Code, Title 63G, Chapter 4, Administrative Procedures Act, provides a standard due process procedure that ensures consistency in administrative proceedings within state government. The Administrative Procedures Act contains procedures for an initial administrative hearing, an appeal, and judicial review or civil enforcement of a final order. Rather than create a unique administrative proceeding for imposing a civil or administrative penalty, a civil penalty provision normally refers to Title 63G, Chapter 4, Administrative Procedures Act.

c. Severity of Penalty

When drafting a civil penalty, a drafter should take into account relevant caselaw relating to the severity of a

fine.

d. Criminal and Civil Penalty for Same Offense

A possible consequence of imposing a civil and criminal penalty for the same offense is that the civil penalty may be characterized as "quasi-criminal" and therefore the defendant in the civil proceeding may be afforded greater procedural protection than would be afforded in a purely civil matter.

Imposing both criminal and civil penalties for the same conduct may also raise a double jeopardy issue. Double jeopardy provisions protect a person from being punished twice for one crime. To help avoid double jeopardy issues, a provision that imposes both criminal and civil penalties should expressly designate the civil penalty as a civil penalty that is imposed in addition to the criminal penalty.

A drafter can make it clear that the Legislature intends that a civil penalty be imposed in addition to a criminal penalty by stating the intent in the legislation.

Example

(iv) In addition to the criminal penalty described in Subsection (2)(c)(ii), the lieutenant governor shall impose a civil fine of \$100 against a state office candidate who violates Subsection (2)(c)(i).

e. Private Party Enforcement

In rare cases, a legislative sponsor may want to make express that the imposition of penalties by the government does not prevent a private party from bringing a civil action based on conduct that constitutes a violation of a statutory provision.

Example

(5) This section does not limit or impair the right of a person injured by another's violation of this chapter to sue and recover damages from that person in a civil action.

Legislation may also create a private right of action. This type of provision should:

- identify the person who is subject to the private right of action;
- identify the person who can bring the private right of action;



- identify the violation;
- identify the penalty; and
- make the punishment specific to the proscribed conduct.

Example

- (1) A dealer may bring an action in a court of competent jurisdiction to obtain payment from a supplier of a warranty claim submitted under this chapter to a supplier if the supplier:
 - (a) fails to make payment in accordance with this chapter; or
 - (b) wrongfully rejects the dealer's warranty claim.
- (2) If the court finds that the supplier has committed a violation under Subsection (1)(a) or (b), the court shall award to the dealer:
 - (a) payment of the warranty claim;
 - (b) costs; and
 - (c) reasonable attorney fees.

f. Class Action

A class action is a lawsuit where a court authorizes a single person or group to represent the interests of a larger group. The Utah Code includes some provisions that allow for a class action suit or that eliminate or modify the ability to bring a class action suit. For example:

- Title 13, Chapter 11, Utah Consumer Sales Practices Act, allows for a class action if certain statutory requirements are met.
- Title 13, Chapter 40, Spyware Control Act, prohibits a class action under that chapter

A party bringing a class action must comply with the applicable Utah Rules of Civil Procedure (See Utah Rules of Civil Procedure, Rule 23).



Chapter 10 — Uniformity, Format, and Other Conventions

LEGISLATIVE DRAFTING MANUAL | DECEMBER 2023

1. Adjudicative Authority

To ensure due process, the Legislature grants adjudicative authority to executive branch agencies in a variety of scenarios, including:

- licensing decisions;
- grievance procedures;
- eligibility determinations; and
- other decisions or actions of an agency.

Rather than creating a new process, a drafter normally incorporates, by reference, existing adjudicative procedures described in Title 63G, Chapter 4, Administrative Procedures Act.

2. Boldface

Boldface refers to the brief, descriptive language that appears in bold at the beginning of a title, chapter, part, or section that describes its contents. Boldface does not have the force of law (Utah Code Section 68-3-13). Though usually changed in legislation, boldface can be changed at any time to accurately reflect the contents of the title, chapter, part, or section the boldface describes. When amending a provision of code, a drafter should check the applicable boldface to make any changes required to accurately reflect the contents. A drafter should also review boldface when preparing an amendment or substitute for a numbered bill.

Boldface is not written as a complete sentence. Instead, boldface comprises short, descriptive phrases separated by double hyphens.

3. Clean Up

Because the Utah Code has not been recodified since 1953, the Legislative Management Committee has directed the Office of Legislative Research and General Counsel to "clean-up" older statutes of the Utah Code when substantive amendments are being made to those sections. This "cleanup" provides consistency in style and form with the new provisions being drafted and ensures that uniform language, numbering, and format exist throughout the Utah Code.

However, in deciding whether, and to what extent, to clean up a code provision, a drafter should take mitigating factors into account. For example, existing language may require so much revision that to undertake a major rewrite would obscure the original purpose of the legislation. Also, a drafter should be sensitive to whether a legislative sponsor has concerns about cleanup and be aware of risks that changing existing language could inadvertently change meaning, particularly when court decisions have interpreted the meaning of existing language.

4. Effective Date

A drafter should always consider the effective date of legislation. A legislative sponsor may have a specific policy reason to let legislation take effect on the normal effective date of bills, or at an earlier or later date. On some occasions, different provisions of a bill need to take effect at different times. In recommending an effective date to a sponsor, a drafter should also take into consideration practical factors, including the time it may take to implement a new provision or for an agency to make rules in response to rulemaking authority granted in the bill. Other considerations that may impact choosing an effective date include when necessary appropriations will be available or whether the bill is addressing an emergency.

a. Normal Effective Date

Unless otherwise specified in legislation, a bill takes effect "sixty days after the adjournment of the session at which it passed" (Utah Constitution, Art. VI, Section 25). A resolution (other than a resolution to amend the Utah Constitution) takes effect when the last required action for passage occurs, unless the resolution provides otherwise (JR4-1-302).

b. Early Effective Date

A bill may take effect earlier than the normal effective date of bills if the bill specifies an earlier date and passes "by a vote of two-thirds of all the members elected to each house" (Utah Constitution, Art. VI, Section 25).



The format used for an early effective date in a bill is:

Example

In Long Title:

Special Clauses:

This bill provides a special effective date.

At End of Bill:

Section __. Effective Date.

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

- (1) unless the governor vetoes the bill, the later of [early effective date], approval by the governor, or, without the governor’s approval, the day following the constitutional time limit of Utah Constitution, Article VII, Section 8; or
- (2) if the governor vetoes the bill and the Legislature overrides the veto, the later of [early effective date] or the date of veto override.

c. Immediate Effective Date

A bill may take effect immediately after it is passed by the Legislature and signed by the governor (or allowed to take effect without the governor’s signature) if it includes an immediate effective date and passes “by a vote of two-thirds of all the members elected to each house” (Utah Constitution, Art. VI, Section 25).

If a bill with an immediate effective date fails to pass by two-thirds of all members elected to each house, it takes effect on the normal effective date for bills.

Following is an example of an immediate effective date in a bill.

Example

In Long Title:

Special Clauses:

This bill provides a special effective date.

At End of Bill:

Section 3. Effective Date.

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

d. Delayed Effective Date

A bill with a delayed effective date (i.e., an effective date after the normal effective date for bills) takes effect on the date specified in the bill.

Example

In Long Title:

Special Clauses:

This bill provides a special effective date.

At End of Bill:

Section 3. Effective Date.

This bill takes effect on July 1, 2024.

A delayed effective date that extends beyond the next general session is strongly discouraged because a delayed effective date creates a section with two histories and two different effective dates that must be addressed in future drafting.

e. Split Effective Date

Occasionally, different parts of a bill need to take effect at different times. In that case, a split effective date is necessary.

When drafting a split effective date, always put the earliest effective date first, even if the later date applies to more sections than the earlier date (exceptions to this may be approved by the general counsel). While this may result in a situation where the stated default effective date only applies to one section and a later effective date applies to several sections, it is necessary in order to ensure that the office's computer software correctly populates the conflicts and updates tables.

Example

In Long Title:

Special Clauses:

This bill provides a special effective date.

At End of Bill:

Section 5. Effective Date.

- (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2022.
- (2) The actions affecting the following sections take

(Continued on page 62)



(Continued from page 61)

effect on January 1, 2023:

- (a) Section 55-5-101;
- (b) Section 55-5-102;
- (c) Section 55-5-201;
- (d) Section 55-5-202;
- (e) Section 55-5-301; and
- (f) Section 55-5-302.

5. Grant Programs

A grant program is usually administered by an executive branch agency within statutory requirements and guidelines. A statutory grant program template is attached as Appendix H.

6. Indexing Dollar Amounts

Occasionally, a drafter is asked to ensure that a dollar amount fixed in statute changes over time in relation to inflation or other economic factors. One way of accomplishing this is to provide for the amount to be adjusted in relation to a percentage change in the consumer price index. When drafting this type of provision, a drafter should determine whether the legislator wants the amount to be adjusted only upwards, only downwards, or both. The provision should include a definition of Consumer Price Index, as shown in the following example.

Example

(2) (a) As used in this Subsection (2), "consumer price index" means the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor.

Examples of provisions for an upward or downward adjustment follow.

Examples

(Upward or Downward Adjustment)

(b) Beginning on January 1, 2025, the lieutenant governor shall, on an annual basis, increase or decrease the dollar amounts described in this section by a percentage equal to the percentage difference between the consumer price index for the preceding calendar

year and the consumer price index for calendar year 2023, rounded to the nearest whole dollar.

(Upward or Downward Adjustment)

- (b) The commission shall:
 - (i) increase or decrease the dollar amount described in Subsection (1) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2023; and
 - (ii) after making an increase or decrease under Subsection (2)(b)(i), round the dollar amount to the nearest whole dollar.

Examples of provisions for an upward only adjustment follow.

Examples

(Upward Adjustment Only)

- (b) Except as provided in Subsection (2)(c), on the first day of every even-numbered calendar year, beginning on January 1, 2016, the minimum wage and the cash wage obligation shall increase by a percentage equal to the percentage difference between the average of the Consumer Price Index for the two preceding calendar years and the Consumer Price Index for calendar year 2013.
- (c) If the percentage difference described in Subsection (2)(b) is negative, the minimum wage and the cash wage obligation do not change.

(Upward Adjustment Only)

- (b) For a calendar year beginning on or after January 1, 2015, the commission shall increase the dollar amount described in Subsection (2) by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2013, rounded to the nearest \$100 increment.
- (c) If, for a calendar year, the percentage difference between the consumer price index for the preceding calendar year and the consumer price index for calendar year 2013 is zero or a negative

(Continued on page 63)



(Continued from page 62)

percentage, the consumer price index increase for the current calendar year is zero.

7. Interlocal Agreement

An interlocal agreement is usually an agreement between political subdivisions or an agreement between political subdivisions and the state. An interlocal agreement generally does not require legislation to approve the agreement unless the agreement requires the Legislature to appropriate money. If legislation is necessary, it would typically be in the form of a concurrent or joint resolution approving the interlocal agreement and would not be codified. A reference to an interlocal agreement in a resolution or the incorporation of the agreement by reference in statute is generally adequate and it is unnecessary to submit the entire text of the agreement to the Legislature. If a drafter includes the entire text of the interlocal agreement into legislation, the drafter should not alter the text of the agreement.

8. Legislative Findings

Codified findings are usually unnecessary. However, in narrow circumstances a finding may serve a very specific need such as when a future court interpretation may require a legislative finding. For example, certain First Amendment cases addressing regulation of lewd behavior may look to whether there are legislative findings of secondary effects. In drafting legislative findings, a drafter should be careful to make the findings as narrow as possible and exclude, whenever possible, facts that are susceptible to frequent change. Legislative findings should be based on studies or facts and not merely express an opinion.

Avoid stating findings in a way that may be misinterpreted to establish a legal right. An example of a statement that could be misinterpreted in this manner is, "the Legislature finds that a child in the public schools is entitled to a child-to-teacher ratio of no more than 20 children per teacher."

9. Legislative Intent

The use of a codified statement of legislative intent is strongly discouraged. Legislative intent should be made clear through the operative provisions of a statute. A

codified statement of legislative intent invites misinterpretation of the substantive provisions to which it relates and may lead to unforeseen, and unintended, consequences. In most cases, a statement of legislative intent is unnecessary. In the rare occasions where it is used, the preferred practice is to have the statement "spread on the pages of the journal." This practice makes the statement a matter of record without giving it the force of law.

10. Professional Licensing

Appendix I contains model licensing language.

11. Recodification

At times significant restructuring of the Utah Code is required because a legislative client seeks to either replace an existing title, chapter, or part with new law or to substantially rework the existing title, chapter, or part. This type of legislation may result in what is informally called a "recodification."

A recodification may require accounting for one or more common issues, including:

- ensuring that all cross references to the existing title, chapter, or part are properly changed, including not only references to sections but also broader references to the existing title, chapter, or part;
- determining whether the recodification will require changes to administrative rules or rulemaking authority, including numbering; and
- determining whether it is necessary to provide a transition provision, savings clause, or both, explaining how the transition from the existing law to the new law will take place and the effect of the recodification on existing circumstances or pending issues, including any effect on existing state officers or employees, funds, or authority.

See Appendix M for more guidance on recodification.

12. Repeal Date

A bill may also contain a repeal date. In general, a repeal date should be codified in either Utah Code, Title 63I, Chapter 1, Legislative Oversight and Sunset Act, or Title 63I, Chapter 2, Repeal Dates by Title. A repeal date should be uncoded only if it applies to uncoded material.



a. Repeal with Sunset Review

If a sponsor requests that a statute be reviewed before repeal, the repeal date for the statute is added to Title 63I, Chapter 1, Legislative Oversight and Sunset Act. This chapter provides the opportunity for a legislative review before the date set for repeal. Chapter 1, Part 1 describes the process for the review, and Part 2 contains the repeal dates organized by title. Title 63I, Chapter 1, Part 2 is structured so that a repeal date appears in the section numbered to reflect the number of the title here the provision being repealed is located, e.g., for Title 58 — Section 63I-1-258. By codifying the repeal date, it is easier for the Office of Legislative Research and General Counsel to locate the repealer in maintaining the Utah Code database.

If all repeal dates are removed from a section in Title 63I, Chapter 1, Part 2, the section itself is never repealed. Instead, the section appears with only the boldface so that it can be used at a later date for repeal provisions in the title referenced by that section number.

b. Repeal Without Sunset Review

If a legislative sponsor requests that a statute be repealed without requiring a formal sunset review, the repeal date for the statute is added to Title 63I, Chapter 2, Repeal Dates by Title. Title 63I, Chapter 2 is structured so that a repeal date appears in the section numbered to reflect the number of the title where the provision being repealed is located, e.g., for Title 58 — Section 63I-2-258. By codifying the repeal date, it is easier for the Office of Legislative Research and General Counsel to locate the repealer in maintaining the Utah Code database.

If all repeal dates are removed from a section in Title 63I, Chapter 2, the section itself is never repealed. Instead, the section appears with only the boldface so that it can be used at a later date for repeal provisions in the title referenced by that section number.

13. Retrospective Operation

If the legislative sponsor requests that a law be applied retrospectively, an attorney should first determine if retrospective operation is constitutional. A drafter should consider including a special clause calling for retrospective application of an entire bill or some portion

of a bill. A retrospective operation provision may also be combined with a specific effective date. Examples of retrospective operation provisions follow.

Example

Section 3. **Retrospective operation.**

This bill has retrospective operation for a taxable year beginning on or after January 1, 2022.

Example

Section 10. **Effective date -- Retrospective operation.**

- (1) If approved by two-thirds of all the members selected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.
- (2) This bill has retrospective operation for a taxable year beginning on or after January 1, 2022.

14. Rulemaking Authority

a. Nature and Purpose

Rulemaking authority is legislative authority that is granted by the Legislature to an executive branch agency. An executive branch agency uses this authority to provide more detail on the manner in which the executive branch agency carries out and enforces statutory requirements. Some purposes of granting rulemaking authority include:

- specifying the details of a process the agency is required to implement or oversee (e.g., a license application process);
- establishing requirements for a regulated individual or entity to verify compliance with provisions of law the agency is required to enforce (e.g., the payment of taxes);
- establishing specific restrictions relating to an area of law the agency is required to regulate (e.g., hunting and fishing regulations);
- filling in details of a law impacted by changing technology; or
- filling in details that change regularly or require specialized knowledge or expertise.



b. Considerations

A drafter should not include a grant of rulemaking authority in legislation as a matter of course. Rather, rule-making authority should only be granted if there is a legitimate need for the authority. In determining whether to include rulemaking authority in a bill, a drafter should consider whether granting rulemaking authority:

- could be avoided by including more detail in the statute;
- unnecessarily delegates authority that the Legislature could and should retain; or
- constitutes an unconstitutional delegation of legislative authority (i.e. a delegation of a core legislative function).

c. Drafting

If rulemaking authority is granted in legislation, the authority granted should be expressly limited to the authority that is necessary to accomplish the purpose of the legislation and should contain appropriate limitations and guidelines to accurately reflect legislative intent. Legislation should never grant sweeping authority to an agency.

Always use the phrase “make rules.” Avoid using phrases like “adopt rules” or “promulgate rules.”

Examples

Do not use phrases like the following:

shall make rules . . . necessary for the effective administration of the agricultural laws of the state.

shall make rules . . . necessary to administer and enforce this chapter.

shall make rules . . . to establish a process to apply for a license under this part.

Instead, use more specific language like the following:

shall make rules . . . establishing requirements for providing the verification described in Subsection (1).

shall make rules . . . describing the procedures that a counting judge is required to follow for counting ballots in an instant runoff voting race under . . .

shall make rules . . . relating to procedures for complying with, and verifying compliance with, the candidate nominating process described in this part.

A grant of rulemaking authority should reference the provisions of the Utah Administrative Rulemaking Act to ensure that the agency is aware of the requirement to comply with that act.

Example

. . . shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing requirements for providing the verification described in Subsection (1).

If rulemaking authority is granted in legislation, the grant of authority should be reflected in the long title.

d. Transferring Agency Oversight and Authority

If transferring authority or a function of one executive branch agency to another, consider what impact, if any, the transfer will have on the rules or rulemaking authority of the affected agency. Generally, if a bill moves an agency or function, a provision in that bill should provide for the disposition or transfer of the rules or rule-making authority.

Examples of how a legislative drafter can provide for the disposition of rules or rulemaking authority include:

- extending rules for a definite time period to allow for a transition and amending of the rules;
- if the functions will change extensively, providing that the existing rules expire after a specified time period to allow the agency time to write new rules and put the new rules into place; or
- providing that the rules are to be transferred, i.e., renumbered and continued in effect.

Example

Section 10. Application of rules.

- (1) It is the intent of the Legislature that a rule issued under the following statutes that is in effect on [effective date of bill], is not modified by this bill and remains in effect, except that the authority to administer the rule is transferred to the [new agency] in the same manner as the statutory

(Continued on page 66)



(Continued from page 65)

Responsibilities are transferred under this bill:

- (a) [Insert citations to relevant statutes]
- (2) It is the intent of the Legislature that the [new agency] renumber the rules, coordinating with the Division of Administrative Rules, and correct references within the rules on or before [insert a date, a reasonable time after enactment of the bill, to allow for changes to be made].

15. Severability Clause

a. In General

In rare circumstances, there may be a reason to include a severability clause in legislation, indicating either that the provisions of the applicable statutory provisions are, or are not, severable. A severability clause in a bill should be codified to provide notice of the provision.

b. Drafting a severability clause

i. Long Title and Boldface

A reference to a severability clause should be included in the long title of the bill under "Highlighted Provisions" and the boldface of the codified section. A severability clause is not a special clause for purposes of a long title.

ii. Placement

In general, if a codified severability clause applies to a title, chapter, or part, the clause should be placed in a section at the end of the title, chapter, or part, with any transition clause preceding the severability clause. Whether a severability clause should be in a stand-alone section or merged with other provisions depends on the context and the ease of access. If the severability clause applies only to a section, it should be the last subsection in the section with any transition clause preceding the severability clause. If a severability clause applies to an entire bill that affects multiple provisions of the Utah Code, placement is determined on the basis of the composition of the bill.

iii. Form

A severability clause generally includes:

- a statement regarding whether it is the intent of the Legislature that the invalid provision be severed;
- if severability is intended, a statement regarding:

- what portion of the law is subject to the severability clause;
- at what level the law can be severed (e.g., chapter, part, section, subsection, sentence, provision);
- a statement that the severability clause applies if a provision or "the application" of the provision is found invalid; and
- depending on the complexity of the bill, other issues, which may include:
 - who determines validity (e.g., a court of competent jurisdiction);
 - what is meant by invalid (e.g., unconstitutional, superseded, in conflict); and
 - whether the court is to determine whether the provisions that continue can be given effect without the invalid provision or application.

Form of Severability Clause

(providing for severability)

XX-X-XX. Severability clause.

If any [provision/chapter/part/section/subsection] of this [title/chapter/part/section] or the application of any [provision/chapter/part/section/subsection] to any person or circumstance is held invalid [by a final decision of a court of competent jurisdiction], the remainder of this [title/chapter/ part/section] shall be given effect without the invalid [provision/chapter/part/section/subsection] or application. The provisions of this [title/chapter/part/section] are severable.

Form of Severability Clause

(providing for inseverability)

XX-X-XX. Severability not permitted.

If any [provision/chapter/part/section/subsection] of this [title/chapter/part/section] or the application of any [provision/chapter/part/section/subsection] to any person or circumstance is held invalid [by a final decision of a court of competent jurisdiction], the remainder of this [title/chapter/ part/section] may

(Continued on page 67)



(Continued from page 66)

not be given effect without the invalid [provision/ chapter/part/section/subsection] or application. The provisions of this [title/chapter/part/section] may not be severed.

16. Transition Clause

Occasionally, a transition clause is necessary to address issues raised when enacting or modifying a statute. Examples of legislation that may necessitate a transition clause include:

- clarifying the application of a new provision to a specific matter or class (e.g., a bill that applies to a cause of action filed on or after a specific date or to a regulated profession);
- phasing in the implementation of a new provision (e.g., a bill that changes the requirements for an existing license); or
- directing an implementing agency to take certain acts (e.g., a bill that transfers existing rulemaking authority to a new agency).

Appendix K contains examples of transition or savings clauses.

17. Uniformity with Other States

a. Uniform Law

Utah has adopted, and may adopt other, uniform laws that are developed by the Uniform Law Commission.

Because the intent in adopting a uniform law is to create uniformity throughout the country, a drafter should be careful in altering the language of the uniform law. It is often beneficial, with the sponsor's approval, to consult with the Uniform Law Commission regarding potential changes. A drafter should not change language of a uniform law merely to conform with Utah's legislative style (e.g., do not change a "must" to a "shall") because the change could be interpreted as creating a substantive difference between the uniform law in other states and that adopted by Utah.

Drafting a uniform act may require significant work to remove contradictory provisions from the Utah Code and to change numbering, spelling, and basic format. For example, references to "act" in a uniform law should

be changed to "chapter" or other appropriate designation.

A drafter should change the numbering of a uniform law to the extent necessary for the law to fit into the Utah Code's numbering system and reorder provisions in the law to reflect Utah's statutory format. When reordering provisions, a legislative drafter should number the sections in a manner that preserves the overall numbering scheme of a uniform law to maintain consistency and accessibility throughout the states.

b. Model Law

Unlike a uniform law, a model law is a guide for proposed legislation and should be changed to comply with Utah's legislative style when appropriate.

c. Interstate Compact

An interstate compact is, essentially, a negotiated contract and, therefore, a statute adopting a contract should not be modified unless approved by the interstate entity that administers the compact. An interstate compact is typically codified because it affects substantive rights of the public, who should be given notice of Utah's adoption of the compact.

There is not a single model in the Utah Code of how an interstate contract should be structured. Possible structures include:

- enacting a collection of sections;
- creating a chapter or part with each article listed as a separate section; or
- enacting the main text of the interstate compact in a single section with headers generally referred to as "articles."



Chapter 11 — Unique Legislative Action

LEGISLATIVE DRAFTING MANUAL | DECEMBER 2023

1. Statewide Opinion Question

On rare occasions, the Legislature has submitted a non-binding opinion question to the voters of the state. Because this practice is so rare, the statute providing a process for this practice is enacted for a brief period and then repealed. The statutory process normally calls for a resolution, in addition to the statute, to actually place the opinion question on the ballot. Thus, a sponsor seeking to place an opinion question on the ballot usually opens two requests for legislation, one for a bill and one for a resolution. Examples of a bills and resolutions to place an opinion question on the ballot include:

- 2018 General Session H.B. 491, Election Law Changes, and 2018 General Session H.J.R. 20, Joint Resolution Submitting a Question to Voters; and
- 2017 General Session H.B. 78, Nonbinding Opinion Questions, and 2017 General Session H.J.R. 2, Joint Resolution – Nonbinding Opinion Question on Daylight Saving Time.

2. Legislative Approval or Other Legislative Action

Some actions require legislative approval. This requirement is usually imposed by constitution or statute and is usually accomplished through a joint resolution. The Legislature may also take certain action by joint resolution.

Some examples include:

- Authorizing pay of in-session employees (see 2021 General Session H.J.R. 3)
- Accepting federal funds (see 2021 General Session H.J.R. 4)
- Appointing individuals to certain staff positions in the Legislature (See 2021 General Session S.J.R. 1)
- Approving the construction and operation of a landfill (See 2021 General Session S.J.R. 7)
- Extending a state of emergency (See 2020 General Session H.J.R. 24)
- Adopting notes to water rights addenda to deeds (See 2019 General Session H.J.R. 5)

- Approving a settlement agreement (See 2019 General Session H.J.R. 28)

3. Constitutional Amendment

a. State Constitution

To amend the Utah constitution, “two-thirds of all the members elected to each of the two houses” of the Legislature must vote in favor of the amendment, after which the amendment must be passed by the voters at an election (Utah Constitution Art. XXIII, Section 1). The vote of the Legislature is traditionally accomplished by joint resolution. For examples, see:

- 2021 General Session H.J.R. 12;
- 2020 General Session S.J.R. 3; and
- 2019 General Session H.J.R. 1.

The amendment is presented to the voters at a regular general election, held in an even-numbered year.

b. Federal Constitution

The Legislature may ratify a proposed amendment to the federal constitution as provided in United States Constitution, Article V. Ratification would normally be done by joint resolution.

4. Legislative Rules

A legislative rule is enacted or amended by either a single house resolution or, for joint or interim rules, by joint resolution.

Some examples from the 2021 General Session include:

- H.R. 5, House Rules Resolution – Standing Committee Modifications
- H.J.R. 17, Joint Rules Resolution – Procedural Amendments
- S.R. 2, Senate Rules Resolution – Standing Committee Modifications
- S.J.R. 5, Joint Rules Resolution – Legislation Amendments

5. Court Rules

Utah Constitution, Art. VIII, Section 4, provides that “The Legislature may amend the Rules of Procedure and Evidence adopted by the Supreme Court upon a vote of



two-thirds of all members of both houses of the Legislature.” The practice has been that the Legislature exercises this power via joint resolution.

Some examples from the 2021 General Session include:

- H.J.R. 7, Joint Resolution Amending Rules of Criminal Procedure on Motions
- S.J.R. 4, Joint Resolution Amending Rules of Civil Procedure on Expert Witnesses



A statute of limitation or repose sets time limits within which a civil or criminal action must be brought in court. Both of these types of statutes can implicate constitutional issues that a drafter should consider.

1. Statute of Limitations

Statutes of limitations apply in both civil and criminal actions. A statute of limitations generally begins to run when a cause of action has accrued but can begin to run from an event that occurs after a cause of action has accrued.

a. Criminal Actions

A criminal statute of limitations specifies the amount of time within which a prosecution may be brought against a defendant for a crime. Typically, a statute of limitations for a crime begins to run when all elements of the crime have occurred.

Example

A prosecution for a violation of Section 76-5-404, forcible sexual abuse, may only be commenced within eight years after the day on which the violation occurs.

b. Civil Actions

A civil statute of limitations places a limit on the amount of time within which a plaintiff must file a lawsuit. Typically, a statute of limitations for a civil action begins to run when the last event necessary to complete the cause of action accrues.

Example

A cause of action for slander or libel may only be brought within two years after the day on which the cause of action accrues.

2. Statute of Repose

A statute of repose only applies to civil actions. A statute of repose begins to run from a specific event, regardless

Example

A cause of action brought against any person for performing, designing, planning, supervising, or

observing any construction of an improvement for real property may only be commenced within 10 years after the day on which the construction of the improvement is substantially completed.

3. Difference Between a Statute of Limitations and a Statute of Repose

In practice, a drafter can easily mistake a statute of repose as a statute of limitations and vice versa.

When drafting a time limit for a civil action, a drafter should consider whether a cause of action is needed to trigger the statute. If so, a statute of limitations is called for. A statute of limitations will either run from the accrual of the cause of action or from an event related to accrual of the cause of action.

Conversely, a statute of repose begins to run from an event that is unrelated to a cause of action and the entire time period can run without a cause of action ever accruing.

A drafter should use language and boldface that correctly reflect whether a statute is intended to be a statute of limitations or a statute of repose.

Examples

Statute of Limitations:

A cause of action for malpractice against a health care provider may only be brought within two years after the earlier of the day on which the plaintiff or patient:

- (a) discovers the injury; or
- (b) should have discovered the injury through reasonable diligence.

Statute of Repose:

A cause of action for malpractice against a health care provider may only be brought within four years after the day on which the alleged act, omission, or neglect occurs.

4. Placement of a Statute of Limitations or Repose

Many, but not all, civil and criminal statutes of limitations can be found in Title 76, Chapter 1, Part 3, Limita-



tions on Actions, or Title 78B, Chapter 2, Statutes of Limitations.

If a drafter is considering placing a statute of limitations or repose outside of Title 76, Chapter 1, Part 3, Limitations on Actions, or Title 78B, Chapter 2, Statutes of Limitations, the drafter should consider:

- whether the statute of limitations or repose is only applicable to a specific civil action or criminal offense and should be located in the same area of the Utah Code as the specific action or offense;
- whether the statute of limitations or repose overlaps with an existing statute in Title 76, Chapter 1, Part 3, Limitations on Actions, or Title 78B, Chapter 2, Statutes of Limitations and should be included in the existing statute; and
- whether placing the statute of limitations or repose in another area of the Utah Code would make it easier to find.

5. Elements of a Statute of Limitations or Repose

There is no precise way to draft a statute of limitations or repose, but a clear and well-drafted statute of limitations or repose includes certain elements.

a. Bringing an Action

A statute of limitations or repose should include language that addresses bringing an action or prosecution. This language distinguishes a statute of limitations or repose from other types of statutes.

Some examples of this language include:

- A cause of action for X may only be brought
- A cause of action for X may only be commenced
- A person may not bring a cause of action for X
- A prosecution for X may only be brought
- A prosecutor may not bring a prosecution for X

A drafter is discouraged from using permissive language in a statute of limitations or repose (e.g., may be brought). The language of the statute should reflect legislative intent to require that a lawsuit or prosecution be brought within a certain amount of time.

b. Type of Action

A statute of limitations or repose should always specify the type of action to which the time limit applies. For a criminal action, the type of action will be the prosecu-

tion of a specific offense or a specific classification of offenses. For a civil action, the type of action will be the specific civil cause of action or claim.

When creating or adding a new action to a statute of limitations or repose, a drafter should determine whether the new statute of limitations or repose will overlap or conflict with an existing statute of limitations or repose.

c. Amount of Time

A statute of limitations or repose should include the amount of time in which a cause of action or prosecution must be brought. A statute of limitations or repose should state the time limit in terms or years or days, not months.

For example:

- 180 days;
- one year and 180 days;
- 3 years; or
- 10 years and 90 days.

d. Triggering Event

A statute of limitations or repose should clearly state the day on which the time period for bringing a cause of action or prosecution begins to run.

First, the statute should identify the event that triggers the time period. While Utah Code section 78B-2-102 provides a general rule that civil actions are commenced from a cause of action, a drafter should not rely on this general rule when drafting and should make it clear in a statute of limitations or repose when the time period begins to run.

Second, a statute of limitations or repose should clearly state that the period of time begins to run from the day after the triggering event (e.g., “after the day on which”). To avoid confusion on when a statute of limitations or repose begins to run, a drafter should not use the terms, “from,” “of,” “following,” or “subsequent to.”

Examples

Statute of Limitations:

A cause of action for legal malpractice against an attorney or a law firm may only be brought within four

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(Continued from page 71)

years after the day on which the act or omission constituting the alleged basis of the legal malpractice action occurred.

Statute of Repose:

A cause of action for the recovery of damages for personal injury to an individual, death of an individual, or damage to property based on an alleged defect or failure of a product may only be commenced within 12 years after the day on which the product was initially purchased.

e. Tolling

A statute of limitations or repose may be “tolled,” meaning that the time limit for the statute of limitations or repose is paused. As a result, tolling extends the time limit for the filing of an action.

A drafter should try to include language that expressly states how a statute of limitations or repose can be tolled to prevent any confusion or questions about when and if the statute can be tolled. This may include references to existing statutes in the Utah Code that provide specific circumstances in which a statute of limitations or repose can be tolled.

f. Retroactive Application

A statute of limitations or repose can be applied retroactively, but not as a means to revive an action for which the statute of limitations or repose has expired or to unreasonably bar an action where the statute of limitations or repose has not yet expired. When providing for retrospective operation, a drafter should be careful to explain its effect on an existing pre-existing cause of action.

Specifically, if a statute of limitations or repose is being lengthened and will apply retroactively to preexisting actions, a drafter should include language clarifying that: 1) the statute extends the time limit for actions that have not expired; and 2) the statute does not apply to a cause of action that is already barred by the statute. If a statute of limitations or repose is being shortened and will apply retroactively, a drafter should include:

1) language clarifying that the statute is intended to be

retroactive to actions that have not expired; and 2) a transition or savings clause allowing a plaintiff a reasonable amount of time to bring a preexisting action that, as a result of the retroactive application, would be barred on the effective date of changes to the statute.

Example of Lengthening

- (1) A victim of sexual abuse may only bring an action for the recovery of damages as a result of the sexual assault within five years after the day on which the alleged sexual abuse occurred.
- (2) The running of time for an action described in Subsection (1) is tolled:
 - (a) while the victim is a minor or mentally incapacitated in accordance with Section 78B-2-108;
 - (b) while the victim is a minor or mentally incapacitated in accordance with Section 78B-2-108;
 - (c) while the defendant is absent from the state in accordance with Section 78B-2-104; or
 - (d) until the victim discovers or should have reasonably discovered the sexual abuse.
- (3) This section extends the statute of limitations for an action described in Subsection (1) that is not time barred on or before May 4, 2023.
- (4) This section does not revive a cause of action that was time barred on or before May 4, 2023.

Example of Shortening

- (1) Except as provided by Subsection (3), a cause of action brought against any person for performing, designing, planning, supervising, or observing any construction of an improvement for real property may only be commenced within six years after the day on which the construction of the improvement is substantially completed.
- (2) This section applies to any cause of action described in Subsection (1) that arises before, on, or after the effective date of this section.
- (3) For a cause of action described in Subsection (1) that arises before the effective date of this section, the cause of action may only be commenced within

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the later of:

- (a) six years after the day on which the construction of the improvement is substantially completed; or
- (b) one year after the effective date of this section.

APPENDIX A

PROBLEMATIC WORDS AND PHRASES

Not all of the following constitute rigid rules. However, they establish good guidelines to help ensure that legislation is drafted in a clear, concise, consistent, and uncomplicated manner.

A

above	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
above-mentioned	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
absolutely null and void	<i>do not use</i> , use "void"
acknowledge	<i>do not use</i> , use "admit" or "recognize"
accomplish	<i>do not use</i> , use "do" or "perform"
accorded	<i>do not use</i> , use "given"
acknowledge and confess	<i>do not use</i> , use either word as appropriate
acquire	<i>do not use</i> , use "buy" or "obtain"
act and deed	<i>do not use</i> , use either word as appropriate
adequate v. sufficient v. enough	"adequate" means something is suitable in a particular circumstance; "sufficient" refers to an amount of material; "enough" modifies both count and mass nouns
adequate number of	<i>do not use</i> , use "enough" or "sufficient"
adjacent v. contiguous	"adjacent" means lying near; "contiguous" means touching
adjust, compromise, and settle	<i>do not use</i> , use the appropriate word
admit of	<i>do not use</i> , use "allow"
advice v. advise	"advice" (noun) means opinion or recommendation; "advise" (verb) means to counsel
advise and consent	<i>do not use</i> , use "consent"
affect v. effect	"affect" (verb) means to influence or produce an effect on; "affect" (noun) means an observable emotion; "effect" (noun) means result or accomplishment; "effect" (verb) means to cause to happen
affective v. effective	"effective" is broader and means producing an intended or expected result; "affective" means relating to, influencing, or expressing a feeling or emotion
afforded	<i>do not use</i> , use "given"
aforementioned	<i>do not use</i> to refer to a Utah Code section or subsection, instead state the specific code reference
aforesaid	<i>do not use</i> to refer to a Utah Code section or subsection, instead state the specific code reference
after having (plus past participle)	<i>do not use</i> , use "after (plus present participle)," e.g., "after completing the test"
agree and covenant	<i>do not use</i> , use "agree"
all and every	<i>do not use</i> , use the appropriate article
all of the	<i>do not use</i> , use "all the"
already	<i>do not use</i> , state a specific date
also v. and	"and" is always preferred; neither term should be used to begin a sentence or used with the other
alter or amend	<i>do not use</i>
alter or change	<i>do not use</i>

"among" is used to show the relationship of more than two objects or persons or when no close relationship exists it can	mean to be in the class or company of; "between" is used to show the relationship of two objects or person, if a close relationship exists, or as a comparison; for both terms use "and" as the connective; and never follow the term by "each" or "every"
an adequate number of	<i>do not use</i> , use "enough"
and v. also	<i>see</i> "also v. and"
an excessive number of	<i>do not use</i> , use "to many"
annul and set aside	<i>do not use</i>
any and all	<i>do not use</i> , use "a" or "an," unless the meaning requires the use of "any"
and/or	<i>do not use</i>
approximately	<i>do not use</i> , use "about"
as a consequence of	<i>do not use</i> , use "because of"
ascertain	<i>do not use</i> , use "determine"
assign, transfer, and set over	<i>do not use</i>
a sufficient number of	<i>do not use</i> , use "enough"
at that point	<i>do not use</i> , use "then"
at the time	<i>do not use</i> , use "when"
at such time as	<i>do not use</i> , use "when"
authorize and direct	<i>do not use</i> , use either word as appropriate

B

based on	<i>do not use</i> with adverbial force, <i>e.g.</i> , "shall adjust rates annually, based on the cost-of-living," or as a dangling participle, <i>e.g.</i> , "based on the report, the commissioner shall"
be and the same hereby is	<i>do not use</i> , use "is"
before mentioned	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
below	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
be of help to	<i>do not use</i> , use "help"
between v. among	<i>see</i> "among v. between"
bind and obligate	<i>do not use</i> , use either word as appropriate
build, erect, or construct	<i>do not use</i> , use "build"
by and through	<i>do not use</i> , use "by"
by and under	<i>do not use</i> , use either word as appropriate
by and unless	<i>do not use</i> , use either word as appropriate
by and with	<i>do not use</i> , use either word as appropriate
by means of	<i>do not use</i> , use "by"
by reason of	<i>do not use</i> , use "because of"
by virtue of	<i>do not use</i> , use "by" or "under"

C

capital	used in all means except that of a building
capitol	a building or edifice
cancel, annul, and set aside	<i>do not use</i> , use the appropriate word
category	<i>do not use</i> , use "kind," "class," or "group"
cause it to be done	<i>do not use</i> , use "have done"
cease	<i>do not use</i> , use "stop"
cancel v. censure	"cancel" (noun) means a person that inspects with the power to suppress; "cancel" (verb) means to subject to censorship; "censure" means to condemn or to find fault
commence	<i>do not use</i> , use "begin" or "start"

complete (verb)	<i>do not use</i> , use "finish"
conceal	<i>do not use</i> , use "hide"
confess and acknowledge	<i>do not use</i> , use either word as appropriate
consequence	<i>do not use</i> , use "result"
constitute and appoint	<i>do not use</i> , use "appoint"
contiguous v. adjacent	<i>see</i> "adjacent v. contiguous"
convey, transfer, and set over	<i>do not use</i> , use an appropriate word
costs, charges, and expenses	<i>do not use</i> , use an appropriate word
covenant and agree	<i>do not use</i> , use "agree"
current	<i>do not use</i> , state a specific date

D

deem	<i>do not use</i> , use "consider"
deemed to be	<i>do not use</i> , unless a fiction is intended
definite v. definitive	"definite" means to be clear to have distinct limits; "definitive" means decisive, conclusive, final and apparently exhaustive
disburse v. dispense v. disperse	"disburse" means to pay out or to expend; "dispense" means to distribute in parts or to administer; "disperse" means to scatter or break up
disinterested v. uninterested	"disinterested" means free from selfish motive, impartial, or unbiased; "uninterested" means indifference or lack of interest
documents, instruments, and writings	<i>do not use</i> , use an appropriate word
does not operate to	<i>do not use</i> , use "does not"
donate	<i>do not use</i> , use "give"
due and owing	<i>do not use</i> , use either word as appropriate
due to the fact that	<i>do not use</i> , use "because"
duly	<i>do not use</i>
duplicate	<i>do not use</i> , use "copy"
during such time as	<i>do not use</i> , use "while"
during the course of	<i>do not use</i> , use "during"
during the time that	<i>do not use</i> , use "while"

E

each and all	<i>do not use</i> , use "each"
each and every	<i>do not use</i> , use "each"
effect v. affect	<i>see</i> "affect v. effect"
effective v. affective	<i>see</i> "affective v. effective"
effectuate	<i>do not use</i> , use "carry out" or "cause"
either . . . or	<i>do not use to coordinate more than two words, phrases, or clauses</i> , use to indicate one of two
employ (meaning "use")	<i>do not use</i> , use "use"
endeavor (verb)	<i>do not use</i> , use "try"
enough	<i>see</i> "adequate v. sufficient v. enough"
enter into an agreement with	<i>do not use</i> , use "to agree with"
enter into a contract with	<i>do not use</i> , use "contract with"
entirely and completely	<i>do not use</i> , use either word as appropriate
equable v. equitable	"equable" means uniform or unchanging; "equitable" means just, right, or fair
every	<i>do not use</i> , use "a" or "an," unless the meaning requires "any" or "each"
evidence, documentary or otherwise	<i>do not use</i> , use "evidence"
evidencing or relating to	<i>do not use</i> , use "relating to"
evinced	<i>do not use</i> , use "show"
examine witnesses and takes testimony	<i>do not use</i> , use "take testimony"

excessive number of
expend
expiration

do not use, use "to many"
do not use, use "spend"
do not use, use "end"

F

fail, refuse, or neglect
fair and equitable
fair and reasonable
false and fraudulent
final and conclusive
fit and proper
finalize
following

do not use, use "fail"
do not use, use either word as appropriate
do not use, use either word as appropriate
do not use, use either word as appropriate
do not use, use "final"
do not use, use either word as appropriate
do not use, use "complete"
do not use to refer to a section or subsection of code, instead state the specific section or subsection code reference

for and during the period
for and in consideration of
for and on behalf of
force and effect
foregoing

do not use, use "for" or "during"
do not use, use "for"
do not use, use "for"
do not use, use either word as appropriate
do not use to refer to a section or subsection of code, instead state the specific section or subsection code reference

for the duration of
for the purpose of
for the reason that
forthwith
fraud and deceit
free and clear
free and unfettered
frequent
from and after
from the point of view of
full and complete
full force and effect
furnish
furnish and supply

do not use, use "during"
do not use, use "to"
do not use, use "because"
do not use, use "immediately"
do not use, use either word as appropriate
do not use, use either word as appropriate
do not use, use either word as appropriate
do not use, use "often"
do not use, use "after"
do not use, use "for"
do not use, use "complete"
do not use, use "effect"
do not use, use "give"
do not use, use "give" or "supply"

G

garnish v. garnishee

in general "garnish" means to decorate or embellish; "garnishee" (verb) means to attach money or salary; however, *Black's Law Dictionary* uses "garnish" and "garnishee" (verb) interchangeably to mean to subject to garnishment or to attach, and "garnishee" (noun) as the person that is indebted to

give and grant
give consideration to
give, devise, and bequeath
give recognition to
good and sufficient
guarantee v. guaranty

do not use, use either word as appropriate
do not use, use "consider"
do not use, use the appropriate word
do not use, use "recognize"
do not use, use "sufficient"
"guarantee" means to promise or assure that a legal act will be carried out; "guaranty" (noun) means to warrant or pledge when referring to a debt

H

have knowledge of
have need of
have the effect of

do not use, use "know"
do not use, use "need"
do not use, unless a fiction is intended

he or she	<i>do not use</i> , if a gender neutral term is not possible, use "he"
henceforth	<i>do not use</i> , use "beginning__"
here	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
hereby	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
hereafter	<i>do not use</i> , use "after__takes effect"
heretofore	<i>do not use</i> , use "before__takes effect"
herein	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
hereinabove	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
hereinafter	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
hereinbefore	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
hereunder	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
herewith	<i>do not use</i> to refer to a section or subsection of code, instead state the specific section or subsection code reference
his or her	use only as a last resort, see the gender-neutral drafting policy
hold and keep	<i>do not use</i> , use either word as appropriate

I

if and when	<i>do not use</i> , use either word as appropriate
in a case	<i>do not use</i> , use "if"
in a case in which	<i>do not use</i> , use "when"
in a prompt manner	<i>do not use</i> , use "promptly"
in agreement with	<i>do not use</i> , use "agree"
inasmuch as	<i>do not use</i> , use "because" or "since"
in a manner similar to	<i>do not use</i> , use "like"
in association with	<i>do not use</i> , use "with"
in case of	<i>do not use</i> , use "if"
in close proximity	<i>do not use</i> , use near
in connection with	<i>do not use</i> , use "with," "about," or "concerning"
indicate	<i>do not use</i> , use "show" or "state"
in favor of	<i>do not use</i> , use "for"
initiate	<i>do not use</i> , use "begin"
in order to	<i>do not use</i> , use "to"
inquire	<i>do not use</i> , use "ask"
in receipt of	<i>do not use</i> , use "receives"
in regard to	<i>do not use</i> , use "about" or "concerning"
in relation to	<i>do not use</i> , use "about" or "concerning"
insofar	<i>do not use</i>
in spite of the fact that	<i>do not use</i> , use "although"
institute (verb)	<i>do not use</i> , use "begin" or "start"
in terms of	<i>do not use</i> , use "at," "in," "for," "by," or "with"
interrogate	<i>do not use</i> , use "question"
in the absence of	<i>do not use</i> , use "without"
in the case of	<i>do not use</i> , use "if"
in the course of	<i>do not use</i> , use "during"
in the event of	<i>do not use</i> , use "if"
in the event that	<i>do not use</i> , use "if"
in the interests of	<i>do not use</i> , use "for"
in the nature of	<i>do not use</i> , use "like"

in truth and in fact	<i>do not use</i>
indebtedness and liabilities	<i>do not use, use either word as appropriate</i>
irregardless	<i>do not use, use "regardless"</i>
is able to	<i>do not use, use "can"</i>
is a person who	<i>do not use, use "a person"</i>
is applicable	<i>do not use, use "applies"</i>
is authorized to	<i>do not use, use "may"</i>
is binding upon	<i>do not use, use "binds"</i>
is defined and shall be construed to mean	<i>do not use, use "means"</i>
is dependent on	<i>do not use, use "depends on"</i>
is directed to	<i>do not use, use "shall"</i>
is empowered to	<i>do not use, use "may"</i>
is entitled to	<i>do not use, use "may"</i>
is hereby authorized	<i>do not use, use "shall"</i>
is in attendance at	<i>do not use, use "attends"</i>
is permitted to	<i>do not use, use "may"</i>
is prohibited from	<i>do not use, use "may not"</i>
is required to	<i>do not use, use "shall"</i>
is not prohibited from	<i>do not use, use "may"</i>
is unable to	<i>do not use, use "cannot"</i>
it is directed	<i>do not use, use "shall"</i>
it is the duty to	<i>do not use, use "shall"</i>
it is lawful to	<i>do not use, use "may"</i>
it is the duty	<i>do not use, use "shall"</i>
it is unlawful to	<i>do not use, use "may not"</i>
it shall be his duty to	<i>do not use, use "shall"</i>
it shall be lawful	<i>do not use, use "may"</i>

J

just and reasonable	<i>do not use</i>
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K

keep and maintain	<i>do not use, use either word as appropriate</i>
kind and character	<i>do not use, use either word as appropriate</i>
kind and nature	<i>do not use, use either word as appropriate</i>
known and described as	<i>do not use, use either "known as" or "described as"</i>

L

last will and testament	<i>do not use, use "will"</i>
law passed	<i>do not use, use "law enacted"</i>
locality	<i>do not use, use "place"</i>
locate	<i>do not use, use "find"</i>
loss or damage	<i>do not use, use either word as appropriate</i>

M

make and enter into	<i>do not use, use "make"</i>
maintenance and upkeep	<i>do not use, use either word as appropriate</i>
majority v. plurality v. minority	"majority" means more than half; "plurality" means the greatest number of votes cast when not a majority; "minority" means a number forming less than half of the whole or the controlling number of votes
make application	<i>do not use, use "apply"</i>
make an appointment of	<i>do not use, use "appoint"</i>

make payment
make provision for
may be treated as
means and includes
member of a partnership
minority v. plurality v. majority
modify

do not use, use "pay"
do not use, use "provide"
do not use, unless a fiction is intended
do not use, use either word as appropriate
do not use, use "partner"
see "majority v. plurality v. minority"
do not use, use "change"

N

necessitate
negotiate (as in “_a contract”)
neither . . . nor

do not use, use "require"
do not use, use "make"
do not use to coordinate more than two words, phrases, or clauses, use to indicate not one of two

none whatsoever
not later than
now
nowise
null and void

do not use, use "none"
do not use, use "before"
do not use, state a specific date
do not use
do not use, use "void"

O

obligation and liability
obtain
occasion (verb)
of a technical nature
of and concerning
on account of
on and after July 1
on the person's own application
on the part of
order and direct
ordered, adjudged, and decreed
or, in the alternative
over and above

do not use, use either word as appropriate
do not use, use "get"
do not use, use "cause"
do not use, use "technical"
do not use, use either word as appropriate
do not use, use "because"
do not use, use "June 30"
do not use, use "at the person's request"
do not use, use "by"
do not use, use either word as appropriate
do not use, use "adjudged"
do not use, use "or"
do not use, use "exceed"

P

pay, satisfy, and discharge
peace and quiet
per annum
per centum
per day
per foot
perform and discharge
period of time
person or persons
pleaded v. pled

plurality v. majority v. minority
possess
possession, custody, and control
power and authority
preceding

do not use, use the appropriate term
do not use, use either word as appropriate
do not use, use "each year"
do not use, use "percent"
do not use, use "a day"
do not use, use "a foot"
do not use, use either word as appropriate
do not use, use "period"
do not use, use "person"
do not use "pled," use "pleaded" as the standard past tense and past-participial form
see "majority v. plurality v. minority"
do not use, use "has"
do not use, use the appropriate term
do not use, use either term as appropriate
do not use to refer to a section or subsection of code, instead state the specific section or subsection code reference

prescribe v. proscribe

"prescribe" means to direct, to order, or to lay down a guide or rule;

preserve

"proscribe" means to outlaw or to condemn or forbid as harmful

previous to

do not use, use "keep"

principal v. principle

do not use, use "before"

"principal" (noun) means a capital sum earning interest or used as a fund, a leading person, or a person who authorizes another to act on behalf of the person; "principal" (adjective) means most important; "principle" means basic, general or fundamental law, doctrine, or assumption

prior

do not use, use "earlier"

prior to

do not use, use "before"

procure

do not use, use "buy" or "obtain"

promulgate

do not use, use "issue" or "make,"

prosecute its business

do not use, use "carry on its business"

provided, that

do not use, use "except that"

provided, however, that

do not use, use "except that"

provision of

do not use, use "provision"

provisions of section

do not use, use "section"

purchase (verb)

do not use, use "buy"

R

release and discharge

do not use, use either term as appropriate

remainder

do not use, use "rest"

render (meaning "give")

do not use, use "give"

render (meaning "cause to be")

do not use, use "make"

render a decision

do not use, use "render"

require (meaning "need")

do not use, use "need"

regulation (Utah specific)

do not use, use "rule"

retain

do not use, use "keep"

rights and remedies

do not use, use either term as appropriate

rules and regulations

do not use, use "rules"

S

said

do not use, use the appropriate article, *e.g.*, "the," "that," "these"

same

do not use, use the appropriate article, *e.g.*, "the," "that," "these"

save and except

do not use, use "except"

shall be considered to be

do not use

shall be construed to mean

do not use

shall have the power to

do not use, use "may"

sole and exclusive

do not use, use "exclusive"

some

do not use, state a specific number or amount

specified (meaning "listed")

do not use, use "named"

submit a payment

do not use, use "pay"

subsequent to

do not use, use "after"

such

do not use

suffer (meaning "allow")

do not use, use "allow"

sufficient v. adequate v. enough

see "adequate v. sufficient v. enough"

sufficient number of

do not use, use "enough"

T

take action

do not use, use "act"

take into consideration

do not use, use "consider"

terminate

do not use, use "end"

the manner in which

do not use, use "how"

thence	<i>do not use</i>
thenceforth	<i>do not use</i>
the place of a person's abode	<i>do not use</i> , use "a person's abode"
the question as to whether	<i>do not use</i> , use "whether"
thereafter	<i>do not use</i> , use "after__"
thereby	<i>do not use</i>
therefor	<i>do not use</i>
therein	<i>do not use</i>
thereof	<i>do not use</i> , use "of with"
thereunder	<i>do not use</i>
therewith	<i>do not use</i>
to the effect that	<i>do not use</i> , use "to"
to or until	<i>do not use</i> , use "until"
to wit	<i>do not use</i>
transfer and assign	<i>do not use</i> , use either word as appropriate
transmit	<i>do not use</i> , use "send"
transmitted through the mail	<i>do not use</i> , use "mail"
true and correct	<i>do not use</i> , use "correct"

U

under the provisions	<i>do not use</i> , use "under"
undertake and agree	<i>do not use</i> , use either word as appropriate
uninterested v. disinterested	<i>see</i> "disinterested v. uninterested"
unless and until	<i>do not use</i> , use either word as appropriate
until such time as	<i>do not use</i> , use "until"
used for__purposes	<i>do not use</i> , use "used for __"
utilize (meaning "use")	<i>do not use</i> , use "use"

V

void and of no [effect/force/or value]	<i>do not use</i> , use "void"
--	--------------------------------

W

whatsoever	<i>do not use</i>
whensoever	<i>do not use</i>
whereby	<i>do not use</i>
wherein	<i>do not use</i>
wheresoever	<i>do not use</i>
whenever	<i>do not use</i> , use "when"
whether or not	"or not" is usually unnecessary - to decide if it is needed, substitute "if" for "whether," and if the "if" results in a different meaning, "or not" is needed
who, whoever	used as the subject of a verb or a predicate pronoun, as in "who can go"
whom, whomever	used as the object of a verb or preposition, as in "whom we saw"
with a view to	<i>do not use</i> , use "to"
with reference to	<i>do not use</i> , use "about" or "concerning"
with respect to	<i>do not use</i> , use "about," "with," "on," "concerning," "for," or "in"
with the exception of	<i>do not use</i> , use "except"
with the object of	<i>do not use</i> , use "to"

Sources include: Martineau and Salerno, *Legal, Legislative, and Rule Drafting in Plain English*, (2005); *The Merriam- Webster Dictionary* (2004); Haggard, *Legal Drafting in A Nutshell* (2nd ed. 2003); *The Chicago Manual of Style* (15th ed. 2003); *Black's Law Dictionary* (1999 7th ed.).

APPENDIX B

UTAH CODE HYPHENATION

In General:

The Office of Legislative Research and General Counsel has adopted the following guidelines to aid drafters in the deciding when to hyphenate. The decision regarding whether to hyphenate rests with the drafter.

- A drafter should be as consistent as possible within a title, chapter, or part.
- If, after reviewing these guidelines, referencing existing code, and checking *Merriam-Webster's Collegiate Dictionary*, no solution can be found, hyphenate if doing so lends clarity, either between words (four-year terms) or within a word (pre-judicial).
- Hyphenate two or more modifiers when they precede a noun (three-week period, 10-point font, even-numbered years, long-term care). Do not hyphenate compound modifiers when they follow a noun (a period of 30 days).
- Do not hyphenate if the first word ends in *ly* (a readily available book).
- Avoid using hyphens with most prefixes (inpatient, preemptive), except to separate two i's, two a's, or another combination that might be confusing (intra-agency, re-create vs. recreate).
- The numbers twenty-one through ninety-nine are hyphenated as is any combination of those numbers; the rest are not (twenty-one, twenty-first, one hundred thirty-nine).

Examples and Some Usage Unique to Utah Code:

Age terms are hyphenated in both noun and adjective forms, except as noted. The examples apply equally to ages expressed as numerals:

a three-year-old
a 55-year-old woman
but
three years old
18 years old

"bi" words: biannually
bipartisan

"by" words: bylaws
bypass
but by-product

Civil and military titles are not hyphenated:

attorney at law
commander in chief
vice chair
vice president
sergeant at arms

email

"ex" words: ex-president
but ex parte, ex officio

father-in-law

fractions: one-half
two-thirds majority

last known address

low income housing

"non" words: nonnegotiable
nonprofit

"off" words: off-highway
off-site

over-the-counter drugs (*but* drugs sold over the counter)

part time (when it follows a verb or noun): an employee who works part time

part-time (when it precedes a verb or noun): a part-time employee

policyholder

policymaking

right-of-way

rulemaking

"self" words: self-employed
self-reporting

"well" words: well-being
well-known

year-round

APPENDIX C

APPROPRIATION EXAMPLES

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Examples of each Appropriation Type

OPERATING AND CAPITAL BUDGETS BOILERPLATE LANGUAGE

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the [Department Name] – [Line Item Name] – [Program Name] as an ongoing [or a one-time] appropriation:
 - from the General Fund [or General Fund, One-time], \$500,000; and
 - from the General Fund Restricted – [Account Name], \$200,000.

(In Body of Bill)

Section ____ . **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To [Department Name] – [Line Item Name]

<u>From General Fund [or General Fund, One-time]</u>	<u>\$500,000</u>
<u>From General Fund Restricted – [Account Name]</u>	<u>\$200,000</u>

Schedule of Programs:

<u>[Program Name]</u>	<u>\$500,000</u>
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[If nonlapsing authority is requested:] Under Section 63J-1-603 the Legislature intends that appropriations provided under this section not lapse at the close of fiscal year 2023. The use of any nonlapsing funds is limited to [purpose(s)].

[If intent language is needed for multiple things:] The Legislature intends that:

- (1) appropriations provided under this section be used for the [Program Name] created in Section [Code Section];
- (2) under Section 63J-1-603, appropriations provided under this section not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to [purpose(s)]; and
- (3) the [Department Name] shall allocate appropriations under this section to...

Note about nonlapsing authority: Nonlapsing status is usually applied to appropriations from accounts, not to the accounts themselves. Funds in a restricted account are already statutorily required to remain in the account under Subsection 63J-1-104(3)(b): “Revenues in a restricted account or fund do not lapse to another account or fund unless otherwise specifically provided for by law or legislative appropriation.” If you need to make appropriations nonlapsing, be careful to state that the appropriations are nonlapsing, not the fund or account from which the appropriations are made.

OPERATING AND CAPITAL BUDGETS EXAMPLE IN THE NEXT FISCAL YEAR

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the State Board of Regents - Administration - Administration, as an ongoing appropriation:
 - from the General Fund, \$10,000; and
- ▶ to the State Board of Regents - Administration - Administration, as a one-time appropriation:
 - from the General Fund, One-time, \$40,000.

(In Body of Bill)

Section 14. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Regents - Administration

From General Fund \$10,000

From General Fund, One-time \$40,000

Schedule of Programs:

Administration \$50,000

The Legislature intends that the State Board of Regents use the appropriation under this item to implement the requirements described in Sections 53B-8a-202 through 53B-8a-204.

OPERATING AND CAPITAL BUDGETS EXAMPLE IN THE CURRENT AND NEXT FISCAL YEAR

Note: Most appropriations are made for the *next* fiscal year (beginning on July 1 after the General Session). If a bill with an appropriation takes effect before July 1, it is sometimes (though rarely) necessary to appropriate money in the *current* fiscal year (which ends June 30 after the General Session) *and* in the *next* fiscal year. All appropriations in the *current* fiscal year are one-time appropriations.

Appropriating for a fiscal year further in the future than the next fiscal year is very rare. To the extent possible, try to avoid this type of appropriation.

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2022:

▶ to the Governor's Office - Governor's Office - Lieutenant Governor's Office, as a one-time appropriation:

· from the General Fund, One-time, \$500,000.

This bill appropriates in fiscal year 2023:

▶ to the Governor's Office - Governor's Office - Lieutenant Governor's Office, as an ongoing appropriation:

· from the General Fund, \$100,000.

(In Body of Bill)

Section 14. **Appropriations.**

Subsection 14(a). Fiscal Year 2022 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2021, and ending June 30, 2022. These are additions to amounts previously appropriated for fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To Governor's Office - Governor's Office

From General Fund, One-time \$500,000

Schedule of Programs:

Lieutenant Governor's Office \$500,000

The Legislature intends that:

- (1) the Office of the Lieutenant Governor expend appropriations under this item to implement the Voting Equipment Grant Program created under Section 20A-5-804; and
- (2) under Section 63J-1-603, appropriations provided by this item not lapse at the close of fiscal year 2022.

Subsection 14(b). Fiscal Year 2023 Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 2

To Governor's Office - Governor's Office

From General Fund

\$100,000

Schedule of Programs:

Lieutenant Governor's Office

\$100,000

The Legislature intends that:

- (1) the Office of the Lieutenant Governor expend appropriations provided under this item to implement the Voting Equipment Grant Program created under Section 20A-5-804; and
- (2) under Section 63J-1-603, appropriations provided by this item not lapse at the close of fiscal year 2023.

(Note: Though the appropriation under Item 2 is ongoing, it will lapse at the close fiscal year 2024, unless an appropriation for that fiscal year also contains nonlapsing language. Statutory language should be used to make appropriations from a fund permanently nonlapsing. This should rarely be done.)

OPERATING AND CAPITAL BUDGETS EXAMPLES FOR A SET NUMBER OF FISCAL YEARS

If the sponsor envisions a temporary program and insists on appropriating all funds up front, there are two options (in order of preference):

Option 1 (preferred method) -- Appropriate the full amount as a one-time appropriation, with intent language that it be used over the desired number of years and not lapse at the end of each year prior to the final date. You also may need to codify a repeal date if the program being funded is temporary.

Option 2 -- Appropriate the annual amount as an ongoing appropriation, with intent language that the ongoing appropriation only applies to the desired number of years. You also may need to codify a repeal date if the program being funded is temporary.

EXAMPLE OF OPTION 1 (preferred method)

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the State Board of Education – State Office of Education – Assessment and Accountability, as a one-time appropriation:
 - from the Education Fund, One-time, \$30,000,000.

(In Body of Bill)

Section 9. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education – State Office of Education

From Education Fund, One-time

\$30,000,000

Schedule of Programs:

Assessment and Accountability

\$30,000,000

The Legislature intends that:

- (1) the State Office of Education expend appropriations provided under this item to develop on-line assessments under Section 53A-1-1;
- (2) the State Office of Education expend the appropriations provided under this item in fiscal years 2023, 2024, and 2025, in an amount not to exceed \$10,000,000 in fiscal year 2023, \$10,000,000 in fiscal year 2024, and the remainder in fiscal year 2025; and
- (3) under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2023 or 2024.

EXAMPLE OF OPTION 2

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the State Board of Education – State Office of Education – Assessment and Accountability, as an ongoing appropriation for fiscal years 2023, 2024, and 2025 only:
 - from the Education Fund, \$10,000,000.

(In Body of Bill)

Section 9. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Board of Education – State Office of Education

From Education Fund

\$10,000,000

Schedule of Programs:

Assessment and Accountability

\$10,000,000

The Legislature intends that:

- (1) the State Office of Education expend appropriations provided under this item to develop on-line assessments under Section 53A-1-1;
- (2) the appropriation under this item is ongoing for the fiscal years 2023, 2024, and 2025 only; and
- (3) under Section 63J-1-603, appropriations provided under this item not lapse at the close of fiscal year 2023 or 2024.

RESTRICTED FUND AND ACCOUNT TRANSFERS

Note: This type of appropriation simply moves money from one account to another and typically does not authorize new spending.

Unless requested by the sponsor, you don't need to create a new restricted account into which you appropriate money from the General Fund, and then appropriate money from the new account to the state program (creating a new restricted account adds to the burden placed on the Division of Finance to track accounts). It is cleaner to simply appropriate from the General Fund to the state program.

Expenditures by a state agency from the restricted account to which the money is transferred must be authorized separately by an appropriation of the Operating and Capital type (see example on next page).

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

▶ to the General Fund Restricted – Substance Abuse Prevention Restricted Account, as a one-time appropriation:

· from the General Fund, One-time, \$10,000,000.

(In Body of Bill)

Section 14. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized in an appropriation.

ITEM 1

To General Fund Restricted – Substance Abuse Prevention Restricted Account

From General Fund, One-time

\$10,000,000

Schedule of Programs:

General Fund Restricted - Substance Abuse Prevention Restricted

Account

\$10,000,000

Note regarding federal funds: Federal funds should never be listed or used as a source for a General Fund restricted account, an expendable special revenue fund, an internal service fund, or an enterprise fund.

RESTRICTED FUND AND ACCOUNT TRANSFERS AND OPERATING & CAPITAL BUDGETS COMBINED

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to General Fund Restricted – Substance Abuse Prevention Restricted Account, as a one-time appropriation:
 - from the General Fund, One-time, \$10,000,000.
- ▶ to State Board of Education – State Administrative Office – Career and Technical Education, as a one-time appropriation:
 - from the General Fund Restricted – Substance Abuse Prevention Restricted Account, One-time, \$10,000,000.

(In Body of Bill)

Section 14. Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023.

Subsection 14(a). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted – Substance Abuse Prevention Restricted Account

From General Fund, One-time \$10,000,000

Schedule of Programs:

General Fund Restricted - Substance Abuse Prevention Restricted

Account \$10,000,000

Subsection 14(b). Operating and Capital Budgets.

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

ITEM 2

To State Board of Education – State Administrative Office

From General Fund Restricted - Substance Abuse Prevention Restricted Account,

One-time \$10,000,000

Schedule of Programs:

Career and Technical Education \$10,000,000

EXPENDABLE FUNDS AND ACCOUNTS

Note: This type of appropriation accounts for money that can be spent without legislative appropriation. It may also move money from one account into an account that can be spent without appropriation.

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

▸ to the Department of Workforce Services – Olene Walker Housing Loan Fund, as a one-time appropriation:

· from the General Fund, One-time, \$115,000.

(In Body of Bill)

Section 7. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. The Legislature has reviewed the following expendable funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated. Outlays and expenditures from the funds or accounts to which the money is transferred may be made without further legislative action, in accordance with statutory provisions relating to the funds or accounts.

ITEM 1

To Department of Workforce Services – Olene Walker Housing Loan Fund

<u>From General Fund, One-time</u>	<u>\$115,000</u>
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Schedule of Programs:

<u>Olene Walker Housing Loan Fund</u>	<u>\$115,000</u>
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TRANSFERS TO UNRESTRICTED FUNDS

Note: This type of appropriation sweeps resources from a restricted account or fund into the unrestricted General Fund, Education Fund, or Uniform School Fund.

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the General Fund, as a one-time appropriation:
 - from the Wildland Fire Suppression Fund, One-time, \$1,666,000.

(In Body of Bill)

Section 3. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2019. The Legislature authorizes the State Division of Finance to transfer the following amounts to the unrestricted General Fund, Education Fund, or Uniform School Fund, as indicated, from the restricted funds or accounts indicated. Expenditures and outlays from the General Fund, Education Fund, or Uniform School Fund must be authorized by an appropriation.

ITEM 1

To General Fund

<u>From Wildland Fire Suppression Fund, One-time</u>	<u>\$1,666,000</u>
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Schedule of Programs:

<u>General Fund</u>	<u>\$1,666,000</u>
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CAPITAL PROJECT FUNDS

Note: This type of appropriation accounts for total spending on infrastructure programs – potentially including bond proceeds.

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the Transportation Investment Fund of 2005, as a one-time appropriation:
 - from Designated Sales Tax, One-time, \$5,000,000; and
 - from Interest Income, One-time, \$596,700.

(In Body of Bill)

Section 3. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. The Legislature has reviewed the following capital project funds. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 1

To Transportation – Transportation Investment Fund of 2005

<u>From Designated Sales Tax, One-time</u>	<u>\$5,000,000</u>
<u>From Interest Income, One-time</u>	<u>\$596,700</u>

Schedule of Programs:

<u>Transportation Investment Fund of 2005</u>	<u>\$5,596,700</u>
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BUSINESS-LIKE ACTIVITIES

Note: This type of appropriation accounts for internal service funds and enterprise funds within state government.

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

▸ to the Department of Administrative Services Internal Service Funds – Division of Finance, as an ongoing appropriation:

· from Dedicated Credits Revenue, \$2,010,700.

This bill authorizes 20 full-time equivalent employees in the Department of Administrative Services Internal Service Funds – Division of Finance.

(In Body of Bill)

Section 3. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. The Legislature has reviewed the following proprietary funds. Under the terms and conditions of Utah Code 63J-1-410, for any included Internal Service Fund, the Legislature approves budgets, full-time permanent positions, and capital acquisition amounts as indicated, and appropriates to the funds, as indicated, estimated revenue from rates, fees, and other charges. The Legislature authorizes the State Division of Finance to transfer amounts between funds and accounts as indicated.

ITEM 1

To Department of Administrative Services Internal Service Funds – Division of Finance

From Dedicated Credits Revenue \$2,010,700

Schedule of Programs:

<u>ISF – Purchasing Card</u>	<u>\$372,200</u>
<u>ISF – Consolidated Budget and Accounting</u>	<u>\$1,638,500</u>
<u>Budgeted FTE</u>	<u>20.0</u>

FIDUCIARY FUNDS

Note: This type of appropriation accounts for trust and agency fund activities.

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the Department of Administrative Services – Utah Navajo Royalties Holding Fund:
 - from Beginning Fund Balance, \$72,000,000; and
 - from Closing Fund Balance, (\$76,000,000).

(In Body of Bill)

Section 3. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. The Legislature has reviewed proposed revenues, expenditures, fund balances, and changes in fund balances for the following fiduciary funds.

ITEM 1

To Department of Administrative Services – Utah Navajo Royalties Holding Fund

<u>From Beginning Fund Balance</u>	<u>\$72,000,000</u>
<u>From Closing Fund Balance</u>	<u>(\$76,000,000)</u>

Schedule of Programs:

<u>Utah Navajo Royalties Holding Fund</u>	<u>(\$4,000,000)</u>
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EXAMPLE OF EVERY APPROPRIATION TYPE IN ONE BILL IN THE NEXT FISCAL YEAR

(In Long Title)

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the General Fund Restricted – Substance Abuse Prevention Restricted Account, as a one-time appropriation:
 - from the General Fund, One-time, \$10,000,000.
- ▶ to the State Board of Education – State Administrative Office – Career and Technical Education, as a one-time appropriation:
 - from the General Fund Restricted – Substance Abuse Prevention Restricted Account, One-time, \$10,000,000.
- ▶ to the Department of Workforce Services – Olene Walker Housing Loan Fund, as a one-time appropriation:
 - from the General Fund, One-time, \$115,000.
- ▶ to the General Fund, as a one-time appropriation:
 - from the Wildland Fire Suppression Fund, One-time, \$1,666,000.
- ▶ to Transportation – Transportation Investment Fund of 2005, as a one-time appropriation:
 - from Designated Sales Tax, One-time, \$5,000,000
 - from Interest Income, One-time, \$596,700.
- ▶ to the Department of Administrative Services Internal Service Funds – Division of Finance, as an ongoing appropriation:
 - from Dedicated Credits Revenue, \$2,010,700.
- ▶ to the Department of Administrative Services – Utah Navajo Royalties Holding Fund:
 - from Beginning Fund Balance, \$72,000,000.
 - from Closing Fund Balance, (\$76,000,000).

This bill authorizes 20 full-time equivalent employees in the Department of Administrative Services Internal Service Funds – Division of Finance.

(In Body of Bill)

Section 14. Appropriations.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023.

Subsection 14(a). Restricted Fund and Account Transfers.

The Legislature authorizes the State Division of Finance to transfer the following amounts between the following funds or accounts as indicated. Expenditures and outlays from the funds or accounts to which the money is transferred must be authorized by an appropriation.

ITEM 1

To General Fund Restricted – Substance Abuse Prevention Restricted Account

From General Fund, One-time \$10,000,000

Schedule of Programs:

General Fund Restricted – Substance Abuse Prevention Restricted

Account \$10,000,000

Subsection 14(b). Operating and Capital Budgets.

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

ITEM 2

To State Board of Education – State Administrative Office

From General Fund Restricted - Substance Abuse Prevention Restricted Account,
One-time \$10,000,000

Schedule of Programs:

Career and Technical Education \$10,000,000

The Legislature intends that under Section 63J-1-603, appropriations provided under this subsection not lapse at the close of fiscal year 2023 and the use of any nonlapsing funds is limited to...

Subsection 14(c). Expendable Funds and Accounts.

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

ITEM 3

To Department of Workforce Services – Olene Walker Housing Loan Fund

From General Fund, One-time \$115,000

Schedule of Programs:

Olene Walker Housing Loan Fund \$115,000

Subsection 14(d). Transfers to Unrestricted Funds.

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

ITEM 4

To General Fund

From Wildland Fire Suppression Fund, One-time \$1,666,000

Schedule of Programs:

General Fund, One-time \$1,666,000

Subsection 14(e). Capital Project Funds.

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

ITEM 5

To Transportation – Transportation Investment Fund of 2005

From Designated Sales Tax, One-time \$5,000,000

From Interest Income, One-time \$596,700

Schedule of Programs:

Transportation Investment Fund of 2005 \$5,596,700

Subsection 14(f). Business-like Activities.

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

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

ITEM 6

To Department of Administrative Services Internal Service Funds – Division of Finance

From Dedicated Credits Revenue \$2,010,700

Schedule of Programs:

ISF – Purchasing Card \$372,200

ISF – Consolidated Budget and Accounting \$1,638,500

Budgeted FTE 20.0

Subsection 14(g). Fiduciary Funds.

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

ITEM 7

To Department of Administrative Services – Utah Navajo Royalties Holding Fund

From Beginning Fund Balance \$72,000,000

From Closing Fund Balance (\$76,000,000)

Schedule of Programs:

Utah Navajo Royalties Holding Fund (\$4,000,000)

APPENDIX D

CONFLICTS CAUSED BY A BILL'S ACTION

		Bill A →			
	Repeal	Repeal and Reenact	Renumber and Amend	Amend	Enact
Repeal	Both repeals take effect.	Repealer takes precedence.	Repealer takes precedence.	Repealer takes precedence.	N/A
Repeal and Reenact	Repealer takes precedence.	Old section is repealed. Reenacted section remains. If substance is different, one will be technically renumbered.	Repeal and reenact takes precedence.	Repealed and reenacted takes precedence.	N/A
Renumber and Amend	Repealer takes precedence.	Repeal and reenact takes precedence.	If substance of renumbered and amended sections are the same, a composite is created. If substance of renumbered and amended sections are different, one is technically renumbered.	Section is renumbered and amended and a composite is created. If the amendments are incompatible, a coordination clause is necessary.	Section is enacted. If substance of sections is the same, a composite is created. If substance of enacted and renumbered and amended bills is different, one is technically renumbered.
← Bill B Amend	Repealer takes precedence.	Repeal and reenact takes precedence.	Amendments from both bills are combined and a composite is created. If substance of amendment is different, a coordination clause is required.	Section is amended and a composite is created.	N/A
Enact	N/A	N/A	Section is enacted. If substance of sections are the same, a composite is created. If substance of enacted and renumbered and amended bills are different, one is technically renumbered.	N/A	Section is enacted. If substance of sections are the same, a composite is created. If substance of enactments are different, one is technically renumbered.

APPENDIX E
COORDINATION CLAUSE EXAMPLES

... RESERVED ...

APPENDIX F
LEGISLATIVE TASK FORCE TEMPLATE

[TF Name]
[Year] GENERAL SESSION STATE OF
UTAH

LONG TITLE

General Description:

This bill creates the [TF Name].

Highlighted Provisions:

This bill:

- ▶ creates
- ▶ requires

Money Appropriated in this Bill:

This bill appropriates in fiscal year [Year]:

- ▶ to the Legislature - Senate, as a [one-time/ongoing] appropriation:
 - from the General Fund \$\$ Senate];
- ▶ to the Legislature - House of Representatives, as a [one-time/ongoing] appropriation:
 - from the General Fund \$\$ House]; and
- ▶ to the Legislature – Office of Legislative Research and General Counsel, as a [one-time/ongoing] appropriation:
 - from the General Fund \$\$ OLRGC].

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

63I-2-236

ENACTS:

36-29-__

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

Section 1. Section 36-39-___ is amended to read:

36-29-___. [TF Name] -- Creation -- Membership -- Interim rules followed -- Compensation -- Staff.

- (1) As used in this section:
 - (a) “Task force” means the [TF name] created in Subsection (2).
 - (b) _____
- (2) There is created the [TF Name] comprising the following [TotalMembers] members:
 - (a) [# Sen] members of the Senate appointed by the president of the Senate, no more than ___ of whom may be from the same political party;
 - (b) [# Rep] members of the House of Representatives appointed by the speaker of the House of Representatives, no more than ___ of whom may be from the same political party; and
 - (c) [# non-legislative members (fewer than the number of legislative members), if any].
- (3) A vacancy in a position appointed under Subsection (2) shall be filled by the appointing authority, described in Subsection (2), for the vacant position.
- (4)
 - (a) The president of the Senate shall designate a member of the Senate appointed under Subsection (2)(a) as a cochair of the committee.
 - (b) The speaker of the House of Representatives shall designate a member of the House of Representatives appointed under Subsection (2)(b) as a cochair of the committee.
- (5)
 - (a) ___ members constitute a quorum of the task force.
 - (b) The action of a majority of a quorum present constitutes the action of the task force.
- (6)
 - (a) Salaries and expenses of the members of the task force who are legislators shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.
 - (b) A member of the task force who is not a legislator:
 - (i) may not receive compensation or benefits for the member's service associated with the task force; and
 - (ii) may receive per diem and travel expenses incurred as a member of the task force at the rates the Division of Finance establishes in accordance with:
 - (A) Sections 63A-3-106 and 63A-3-107; and
 - (B) rules the Division of Finance makes in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to carry out the provisions of Sections 63A-3-106 and 63A-3-107.
- (7) The Office of Legislative Research and General Counsel shall provide staff support to the task force.
- (8) The task force shall:
 - (a) [duties] . . .

**APPENDIX G
LEGISLATIVE TASK FORCE EXAMPLES**

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H.B. 41

**MURDERED AND MISSING INDIGENOUS WOMEN AND
GIRLS TASK FORCE**

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Angela Romero

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill creates the Murdered and Missing Indigenous Women and Girls Task Force (task force).

Highlighted Provisions:

This bill:

- ▶ creates the task force, addressing:
 - membership;
 - quorum requirements; and
 - compensation for task force members;
- ▶ requires the Office of Legislative Research and General Counsel to staff the task force; and
- ▶ specifies duties of the task force.

Money Appropriated in this Bill:

This bill appropriates:

in fiscal year 2021:

- ▶ to the Legislature - Senate as a one-time appropriation:
 - from the General Fund, One-time, \$400;
- ▶ to the Legislature - House of Representatives as a one-time appropriation:
 - from the General Fund, One-time, \$400; and
- ▶ to the Legislature - Office of Legislative Research and General Counsel as a one-time appropriation:

- 30 • from the General Fund, One-time, \$300; and
- 31 in fiscal year 2022:
- 32 ▶ to the Legislature - Senate as an ongoing appropriation:
- 33 • from the General Fund, \$2,800;
- 34 ▶ to the Legislature - House of Representatives as an ongoing appropriation:
- 35 • from the General Fund, \$2,800; and
- 36 ▶ to the Legislature - Office of Legislative Research and General Counsel as an
- 37 ongoing appropriation:
- 38 • from the General Fund, \$2,500.

39 **Other Special Clauses:**

40 This bill provides a special effective date.

41 **Utah Code Sections Affected:**

42 AMENDS:

43 **63I-2-236**, as last amended by Laws of Utah 2019, Chapter 389

44 ENACTS:

45 **36-29-107.5**, Utah Code Annotated 1953



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

48 Section 1. Section **36-29-107.5** is enacted to read:

49 **36-29-107.5. Murdered and Missing Indigenous Women and Girls Task Force --**
 50 **Creation -- Membership -- Quorum -- Compensation -- Staff -- Vacancies -- Duties --**
 51 **Interim report.**

52 (1) As used in this section, "task force" means the Murdered and Missing Indigenous
53 Women and Girls Task Force created in Subsection (2).

54 (2) There is created the Murdered and Missing Indigenous Women and Girls Task
55 Force consisting of the following nine members:

56 (a) one member of the Senate appointed by the president of the Senate;

57 (b) one member of the House of Representatives appointed by the speaker of the House

58 of Representatives;

59 (c) the following three members, appointed jointly by the president of the Senate and
60 the speaker of the House of Representatives:

61 (i) a member of a nonprofit organization primarily serving Utah's Native American
62 community;

63 (ii) a representative of a Utah Native American tribe; and

64 (iii) a representative of a victim advocate organization serving Utah's Native American
65 population;

66 (d) the director of the Division of Indian Affairs, or the director's designee;

67 (e) the executive director of the Department of Human Services, or the executive
68 director's designee;

69 (f) the attorney general, or the attorney general's designee; and

70 (g) the commissioner of public safety for the Department of Public Safety, or the
71 commissioner's designee.

72 (3) A vacancy in a position appointed under Subsection (2)(a), (b), or (c) shall be filled
73 by appointing a replacement member in the same manner as the member creating the vacancy
74 was appointed under Subsection (2)(a), (b), or (c).

75 (4) (a) The member of the Senate appointed under Subsection (2)(a) is a cochair of the
76 task force.

77 (b) The member of the House of Representatives appointed under Subsection (2)(b) is
78 a cochair of the task force.

79 (5) (a) A quorum consists of five members.

80 (b) The action of a majority of a quorum constitutes an action of the task force.

81 (6) (a) Salaries and expenses of the members of the task force who are legislators shall
82 be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3,

83 Legislator Compensation.

84 (b) A member of the task force who is not a legislator:

85 (i) may not receive compensation or benefits for the member's service associated with

86 the task force; and

87 (ii) may receive per diem and travel expenses incurred as a member of the task force at
88 the rates the Division of Finance establishes in accordance with:

89 (A) Sections 63A-3-106 and 63A-3-107; and

90 (B) rules the Division of Finance makes in accordance with Title 63G, Chapter 3, Utah
91 Administrative Rulemaking Act, to carry out the provisions of Sections 63A-3-106 and
92 63A-3-107.

93 (7) The Office of Legislative Research and General Counsel shall provide staff support
94 to the task force.

95 (8) The task force shall:

96 (a) conduct appropriate consultations with tribal governments on the scope and nature
97 of the issues regarding murdered and missing indigenous women and girls;

98 (b) develop model protocols and procedures to apply to new and unsolved cases of
99 murdered or missing indigenous women and girls, including the best practices for:

100 (i) improving the way law enforcement investigators and prosecutors respond to the
101 high volume of the cases, and to the investigative challenges that might be presented in cases
102 involving female victims;

103 (ii) collecting and sharing data among various jurisdictions and law enforcement
104 agencies; and

105 (iii) better use of existing criminal databases;

106 (c) seek input from multi-disciplinary and multi-jurisdictional persons, including
107 representatives from tribal law enforcement and federal agencies, about how to review cold
108 cases involving murdered and missing indigenous women and girls; and

109 (d) address the need for greater clarity concerning roles, authorities, and jurisdiction
110 throughout the lifecycle of cases involving murdered and missing indigenous women and girls
111 by discussing:

112 (i) best practices in cases involving murdered and missing indigenous women and girls,
113 including best practices related to communication with affected families from initiation of an

114 investigation through case resolution or closure; and

115 (ii) education and outreach campaigns for communities that are most affected by crime
116 resulting in murdered and missing indigenous women and girls to identify and reduce the
117 crime.

118 (9) (a) On or before November 30, 2023, the task force shall provide a report to the
119 Law Enforcement and Criminal Justice Interim Committee.

120 (b) The report described in Subsection (9)(a) shall include a summary of the task
121 force's findings under Subsection (8) and recommendations for improvements in the criminal
122 justice and social service systems for preventing and addressing crimes involving murdered and
123 missing indigenous women and girls in the state.

124 Section 2. Section **63I-2-236** is amended to read:

125 **63I-2-236. Repeal dates -- Title 36.**

126 [~~Section 36-29-105 is repealed on December 31, 2020.~~]

127 Section 36-29-107.5 is repealed on November 30, 2023.

128 Section 3. **Appropriation.**

129 The following sums of money are appropriated for the fiscal year beginning July 1,
130 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for
131 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures
132 Act, the Legislature appropriates the following sums of money from the funds or accounts
133 indicated for the use and support of the government of the state of Utah.

134 ITEM 1

135 To Legislature - Senate

136 From General Fund, One-time

\$400

137 Schedule of Programs:

138 Administration

\$400

139 ITEM 2

140 To Legislature - House of Representatives

141 From General Fund, One-time

\$400

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142	<u>Schedule of Programs:</u>	
143	<u>Administration</u>	<u>\$400</u>
144	<u>ITEM 3</u>	
145	<u>To Legislature - Office of Legislative Research and General Counsel</u>	
146	<u>From General Fund, One-time</u>	<u>\$300</u>
147	<u>Schedule of Programs:</u>	
148	<u>Administration</u>	<u>\$300</u>
149	<u>The following sums of money are appropriated for the fiscal year beginning July 1,</u>	
150	<u>2021, and ending June 30, 2022. These are additions to amounts previously appropriated for</u>	
151	<u>fiscal year 2022. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures</u>	
152	<u>Act, the Legislature appropriates the following sums of money from the funds or accounts</u>	
153	<u>indicated for the use and support of the government of the state of Utah.</u>	
154	<u>ITEM 1</u>	
155	<u>To Legislature - Senate</u>	
156	<u>From General Fund</u>	<u>\$2,800</u>
157	<u>Schedule of Programs:</u>	
158	<u>Administration</u>	<u>\$2,800</u>
159	<u>ITEM 2</u>	
160	<u>To Legislature - House of Representatives</u>	
161	<u>From General Fund</u>	<u>\$2,800</u>
162	<u>Schedule of Programs:</u>	
163	<u>Administration</u>	<u>\$2,800</u>
164	<u>ITEM 3</u>	
165	<u>To Legislature - Office of Legislative Research and General Counsel</u>	
166	<u>From General Fund</u>	<u>\$2,500</u>
167	<u>Schedule of Programs:</u>	
168	<u>Administration</u>	<u>\$2,500</u>
169	<u>The Legislature intends that an appropriation provided under this section be used for</u>	

170 expenses relating to the Murdered and Missing Indigenous Women and Girls Task Force as
171 described in Section [36-29-107.5](#).

172 Section 4. **Effective date.**

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

1 **CRIMINAL CODE EVALUATION TASK FORCE EXTENSION**

2 2021 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Karen Mayne**

5 House Sponsor: Paul Ray

7 **LONG TITLE**

8 **General Description:**

9 This bill reenacts the Criminal Code Evaluation Task Force.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ reenacts the Criminal Code Evaluation Task Force.

13 **Money Appropriated in this Bill:**

14 None

15 **Other Special Clauses:**

16 None

17 **Utah Code Sections Affected:**

18 AMENDS:

19 **63I-1-236**, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 19

20 ENACTS:

21 **36-29-108**, Utah Code Annotated 1953

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

24 Section 1. Section **36-29-108** is enacted to read:

25 **36-29-108. Criminal Code Evaluation Task Force.**

26 (1) As used in this section, "task force" means the Criminal Code Evaluation Task
27 Force created in this section.

28 (2) There is created the Criminal Code Evaluation Task Force consisting of the
29 following 15 members:

30 (a) three members of the Senate appointed by the president of the Senate, no more than
31 two of whom may be from the same political party;

32 (b) three members of the House of Representatives appointed by the speaker of the
33 House of Representatives, no more than two of whom may be from the same political party;

34 (c) the executive director of the Commission on Criminal and Juvenile Justice or the
35 executive director's designee;

36 (d) the director of the Utah Sentencing Commission or the director's designee;

37 (e) one member appointed by the presiding officer of the Utah Judicial Council;

38 (f) one member of the Utah Prosecution Council appointed by the chair of the Utah
39 Prosecution Council;

40 (g) the executive director of the Utah Department of Corrections or the executive
41 director's designee;

42 (h) the commissioner of the Utah Department of Public Safety or the commissioner's
43 designee;

44 (i) the director of the Utah Office for Victims of Crime or the director's designee;

45 (j) an individual who represents an association of criminal defense attorneys, appointed
46 by the president of the Senate; and

47 (k) an individual who represents an association of victim advocates, appointed by the
48 speaker of the House of Representatives.

49 (3) (a) The president of the Senate shall designate a member of the Senate appointed
50 under Subsection (2)(a) as a cochair of the task force.

51 (b) The speaker of the House of Representatives shall designate a member of the House
52 of Representatives appointed under Subsection (2)(b) as a cochair of the task force.

53 (4) (a) A majority of the members of the task force constitutes a quorum.

54 (b) The action of a majority of a quorum constitutes an action of the task force.

55 (5) (a) Salaries and expenses of the members of the task force who are legislators shall
56 be paid in accordance with Section [36-2-2](#) and Legislative Joint Rules, Title 5, Chapter 3,
57 Legislator Compensation.

- 58 (b) A member of the task force who is not a legislator:
59 (i) may not receive compensation for the member's work associated with the task force;
60 and
61 (ii) may receive per diem and reimbursement for travel expenses incurred as a member
62 of the task force at the rates established by the Division of Finance under Sections [63A-3-106](#)
63 and [63A-3-107](#).
64 (6) The Office of Legislative Research and General Counsel shall provide staff support
65 to the task force.
66 (7) The task force shall review the state's criminal code and related statutes and make
67 recommendations regarding:
68 (a) the proper classification of crimes by degrees of felony and misdemeanor;
69 (b) standardizing the format of criminal statutes; and
70 (c) other modifications related to the criminal code and related statutes.
71 (8) On or before November 30 of each year that the task force is in effect, the task
72 force shall provide a report, including any proposed legislation, to:
73 (a) the Law Enforcement and Criminal Justice Interim Committee; and
74 (b) the Legislative Management Committee.
75 (9) The task force is repealed April 15, 2023.
76 Section 2. Section **63I-1-236** is amended to read:
77 **63I-1-236. Repeal dates, Title 36.**
78 (1) Title 36, Chapter 17, Legislative Process Committee, is repealed January 1, 2023.
79 (2) Section [36-12-20](#) is repealed June 30, 2023.
80 (3) Title 36, Chapter 28, Veterans and Military Affairs Commission, is repealed
81 January 1, 2025.
82 [~~(4) Section [36-29-105](#) is repealed on December 31, 2020.~~]
83 [(5)] (4) Section [36-29-106](#) is repealed June 1, 2021.
84 (5) Section [36-29-108](#), Criminal Code Evaluation Task Force, is repealed April 15,
85 2023.

86 (6) Title 36, Chapter 31, Martha Hughes Cannon Capitol Statue Oversight Committee,
87 is repealed January 1, 2022.

APPENDIX H

Statutory Grant Program Template

The following is a template that a drafter may use for a grant program. This format is not required.

- (1) As used in this section:
 - (a) "Grant" means a grant awarded under this section.
 - (b) "Program" means the [name of grant program] created in this section.
 - (c) [Other necessary definitions].
- (2)
 - (a) There is created within the [agency] the [name of grant program].
 - (b) The purpose of the program is to award grants to [eligible recipient] to [purpose of program].
- (3)
 - (a) A/an [eligible recipient] that submits a proposal for a grant to the [agency] shall include details in the proposal regarding:
 - (i) how the [eligible recipient] plans to use the grant to fulfill the purpose described in Subsection (2);
 - (ii) any plan to use funding sources in addition to the grant for the proposal;
 - (iii) any existing or planned partnerships between the [eligible recipient] and another individual or entity to implement the proposal;
 - (iv) [other proposal requirements]; and
 - (v) other information the [agency] determines necessary to evaluate the proposal.
 - (b) When evaluating a proposal for a grant, the [agency] shall consider:
 - (i) the likelihood the proposal will accomplish the purpose described in Subsection (2);
 - (ii) the cost of the proposal;
 - (iii) the extent to which any additional funding sources or existing or planned partnerships may benefit the proposal;
 - (iv) the viability and sustainability of the proposal; and
 - (v) [other evaluation criteria].
 - (c) In determining a grant award, the [agency] shall/may [authority to consult, prioritize, etc.].
- (4) Subject to Subsection (3), the [agency] shall/may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:
 - (a) eligibility criteria for a grant;
 - (b) the form and process for submitting a proposal to the [agency] for a grant;
 - (c) the method and formula for determining a grant amount; and
 - (d) reporting requirements for a grant recipient.
- (5) On or before [date/date of each year], the [agency] shall provide a written report to the [interim committee/another agency] regarding:
 - (a) the number of grants awarded under the program;
 - (b) data gathered under the program;
 - (c) the impact of the program on [purpose of program]; and
 - (d) [other reporting requirements].

[Sunset date]

[Appropriation with intent language that refers to the grant program (usually one-time, nonlapsing)]

[Rulemaking authority may not be necessary for every grant program]

APPENDIX I

MODEL PROFESSIONAL LICENSING ACT

Part 1 - General Provisions

58-_-101. Definitions.

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

- (1) "Board" means the _____ Board created in Section 58-_-201.
- (2) "Practice of _____" means _____.
- (3) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-_-501.
- (4) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-_-502.
- (5) [Other definitions listed alphabetically.]

Part 2 - Board

58-_-201. Board.

- (1) There is created the _____ Board consisting of _____ and one member of the general public.
- (2) The board shall be appointed and serve in accordance with Section 58-1-201.
- (3) The duties and responsibilities of the board shall be in accordance with Sections 58-1-202 and 58-1-203. In addition, the board shall designate one of its members on a permanent or rotating basis to:
 - (a) assist the division in reviewing complaints concerning the unlawful or unprofessional conduct of a licensee; and
 - (b) advise the division in its investigation of these complaints.
- (4) A board member who has, under Subsection (3), reviewed a complaint or advised in its investigation may be disqualified from participating with the board when the board serves as a presiding officer of an administrative proceeding concerning the complaint.

Part 3 - Licensing

58-_-301. Licensure required -- License classifications.

- (1) A license is required to engage in the practice of _____, except as specifically provided in 58-_-305 or 58-1-307.
- (2) The division shall issue to a person who qualifies under this chapter a license in the classification of _____.

58-_-302. Qualifications for licensure.

Each applicant for licensure under this chapter shall:

- (1) submit an application in a form prescribed by the division;
- (2) pay a fee determined by the department under Subsection 63-38-3(2);
- (3) [good moral character requirement];
- (4) [education requirement];
- (5) [experience requirement]; and
- (6) [examination requirement]

58-_-303. Term of license -- Expiration -- Renewal.

- (1) The division shall issue each license under this chapter in accordance with a two-year renewal cycle established by rule. The division may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the licensee shall show satisfactory evidence of each of the following renewal requirements:
 - (a) [completion of continuing education as required under Section 58- 304]; and
 - (b) [other renewal requirements].

- (3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with Section 58-1-308.

58-_-304. Continuing education.

- (1) As a condition precedent for license renewal, each licensee shall, during each two-year licensure cycle or other cycle defined by rule, complete hours of qualified continuing professional education in accordance with standards defined by rule.
- (2) If a renewal cycle is extended or shortened under Section 58-_-303, the continuing education hours required for license renewal under this section shall be increased or decreased proportionally.

58-_-305. Exemptions for licensure.

In addition to the exemptions from licensure in Section 58-1-307, the following may engage in acts included within the definition of the practice of _____, subject to the stated circumstances and limitations, without being licensed under this chapter:_____.

Part 4 - License Denial and Discipline

58-_-401. Grounds for denial of license -- Disciplinary proceedings.

Grounds for refusing to issue a license to an applicant, for refusing to renew the license of a licensee, for revoking, suspending, restricting, or placing on probation the license of a licensee, for issuing a public or private reprimand to a licensee, and for issuing a cease and desist order shall be in accordance with Section 58-1-401.

Part 5 - Unlawful and Unprofessional Conduct -- Penalties

58-_-501. Unlawful Conduct.

"Unlawful conduct" includes:_____.

58-_-502. Unprofessional Conduct.

"Unprofessional conduct" includes:_____.

58-_-503. Penalty for unlawful conduct.

Any person who violates the unlawful conduct provisions specifically defined in this chapter is guilty of [a class _____ misdemeanor, _____ degree felony].

APPENDIX J
REVISOR INSTRUCTIONS EXAMPLES

... RESERVED ...

APPENDIX K

EXAMPLES OF TRANSITION OR SAVINGS CLAUSES

The following are examples of transition or savings clauses primarily derived from current or previous provisions in the Utah Code. These examples have been modified from the original for brevity or to more closely follow the Legislative Drafting Manual. When substantial language has been omitted from a clause, an ellipsis is used. This is not a complete list of all transition or savings clauses in the Utah Code.

Although some wording of these examples violate principles of the Legislative Drafting Manual, the examples were selected as illustrating approaches in addressing savings or transition issues. If a statute from which the example is taken use the word "act," the term is replaced with "[title/chapter/part/section]," and if it references an effective date without specifying a date, the reference is replaced with "[date]." If an effective date is not known at drafting, revisor instructions are necessary.

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Administrative Rules

31A-2-211. Rules and forms during transition period.

- (1) The commissioner's rules adopted under former Title 31 are rescinded unless continued under Subsection (3).
- (2) Beginning on or after May 1, 1985, and ending on or before July 1, 1986, the commissioner may prepare and adopt rules to implement or supplement this title. These rules are effective on July 1, 1986, or on the effective date of the particular provision, if that is later than July 1, 1986.
- (3) The commissioner may issue an order declaring that all or part of a rule in effect under former Title 31 remains in effect until a date specified under the order, which date may not be later than June 30, 1989. A rule continued under this Subsection (3) may not be inconsistent with another provision under this title. The commissioner shall give notice of the order under Section 31A-2-303.
- (4) A form used, issued, or required by the department and approved by the commissioner or otherwise legitimately in use immediately before [date] may continue to be used until replaced in accordance with this title.

75-2-1301. Transitional provisions.

- (1) On July 1, 1998:
 - (a) an act done in a proceeding and a right accrued before July 1, 1998, is not impaired by this title; and
 - (b) if a right is acquired, extinguished, or barred on the expiration of a prescribed period of time that commenced to run by statute before July 1, 1997, the statute governs with respect to that right.
- (2) A rule of construction or presumption provided in [title/chapter/part] applies to governing instruments executed before July 1, 1997, unless there is a finding of a contrary intent.

Bailment

70A-7a-702. Savings clause.

A document of title issued or a bailment that arises before May 1, 2006 and the rights, obligations, and interests flowing from that document or bailment are governed by a statute or other rule amended or repealed by this chapter as if amendment or repeal had not occurred and may be terminated, completed, consummated, or enforced under that statute or other rule.

Citations

78A-1-106. Transition clause -- Recodification of Title 78.

For purposes of a matter pending in a court beginning February 7, 2008 through August 31, 2008, citation to an appropriate section in the previous Title 78, Judicial Code, shall be considered a proper citation to the corresponding section in Title 78A, Judiciary and Judicial Administration, or Title 78B, Judicial Code.

Continuation of Entity

31A-5-108. Transition provision for former mutual benefit associations, cooperative associations, county mutuels, and reciprocal insurers.

- (1) Except as otherwise provided in this title, a domestic stock or mutual insurance corporation, including an incorporated mutual benefit association, a county mutual, a reciprocal insurer, or an incorporated cooperative association, holding a valid certificate of authority on July 1, 1986, continues to be authorized within the limits of its certificate of authority. An incorporated mutual benefit association, county mutual, reciprocal insurer, or cooperative association becomes a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual by operation of law on July 1, 1986.
- (2) If timely adjustment to the requirements of Chapter 5 would cause an existing stock or mutual insurance corporation hardship, disproportionate expense, or serious inconvenience, the commissioner may, upon the corporation's request, grant an extension for compliance with specified

requirements, if the interests of insureds and the public are not endangered. The extension may not be beyond July 1, 1988.

48-2a-1106. Savings clause.

The repeal of a statutory provision by this chapter does not impair, or otherwise affect, the organization or the continued existence of a limited partnership existing on July 1, 1990, nor does the repeal of a statutory provision by this chapter impair a contract or affect a right accrued before July 1, 1990.

Contract or Agreement

31A-17-404.4. Transition -- Application to reinsurance agreement.

The amendments to this part made in Laws of Utah 2008, Chapter 257, apply to a cession made on or after July 1, 2008 under a reinsurance contract that has an inception, anniversary, or renewal date no sooner than January 1, 2009.

48-2a-1106. Savings clause.

The repeal of a statutory provision by this chapter does not impair, or otherwise affect, the organization or the continued existence of a limited partnership existing on July 1, 1990, nor does the repeal of a statutory provision by this chapter impair a contract or affect a right accrued before July 1, 1990.

63M-1-2408. Transition clause -- Renegotiation of agreements -- Payment of partial rebates.

- (1) As used in this section, "partial rebate" means an agreement . . . under which the state agrees to pay . . .
- (2)
 - (a) Unless modified or renegotiated as provided in Subsection (2)(b), the Division of Finance shall make a partial rebate payment due under an agreement entered into by the office before May 5, 2008 as provided in this section.
 - (b) By January 1, 2009, the office shall:
 - (i) contact each business entity with whom the office entered into an agreement under former Section 63M-1-1304 or 63M-1-1704; and
 - (ii) subject to the limits established in Subsection 63M-1-2404(3)(b), seek to modify those agreements for the sole purpose of providing the incentives in the form of tax credits under this part rather than partial rebates.
 - (c) The office shall:
 - (i) for a modified agreement granting a tax credit, follow the procedures and requirements of Section 63M-1- 2405;
 - (ii) for an agreement that still requires the state to pay a partial rebate to the business entity, follow the procedures and requirements of this section; and
 - (iii) provide a report to the Executive Appropriations Committee and the Legislative Fiscal Analyst by December 1, 2008, about the progress of its efforts to modify agreements reached before May 5, 2008. . .

Conveyance

10-1-109. Saving clause.

- (1) The repeal of a title, chapter, or section specified in Section 10-1-114 does not:
 - (a) affect a suit pending or a right existing immediately prior to [date];
 - (b) impair, avoid, or affect a grant or conveyance made or right acquired or cause of action now existing under a repealed [title/chapter/part/section] or amendment to a repealed [title/chapter/part/section]; or
 - (c) affect or impair the validity of a bond or other obligation issued or sold prior to [date].
- (2) The repeal of a validating [title/chapter/part/section] or part of a [title/chapter/part/section] does not avoid the effect of the validation. An [title/chapter/part/section] repealed by Section 10-1-114 may not repeal an [title/chapter/part/section] or part of an [title/chapter/part/section] that embraces the

same or similar subject matter as the [title/chapter/part/section] repealed.

Court or Administrative Action or Order

30-6a-111. Transitional provision.

This chapter applies to:

- (1) a protection order issued before July 1, 2006;
- (2) a continuing action for enforcement of a foreign protection order commenced before July 1, 2006;
and
- (3) a request for enforcement of a foreign protection order made on or after July 1, 2006 for a violation of a foreign protection order occurring before July 1, 2006.

Effect on Government Entity

78A-1-107. Savings clause -- Recodification of Title 78.

The provisions of Title 78A, Judiciary and Judicial Administration, and Title 78B, Judicial Code, are considered a continuation of the previous Title 78, Judicial Code. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in a court on February 7, 2008 shall result from the enactment of Titles 78A and 78B. With respect to the organization of the courts, the offices of all officers and employees, shall be construed as continuations of the previous Title 78, Judicial Code. The tenure of justices, judges, justices of the peace, officers, and employees of the courts in office on February 7, 2008 is not affected by its enactment.

Section x. Transition to new department.

- (1) As used in this chapter:
- (2) The chief information officer shall serve as the transition director to provide executive direction and supervision for the implementation of all transfers of authority and technology functions in the executive branch to the department that are made pursuant to this bill and the Utah Technology Governance Act.
- (3)
 - (a) The transition director and the directors of all executive branch agencies shall jointly identify the program positions and administrative function positions that will be transferred to the department according to the Utah Technology Governance Act.
 - (b) The transition director and the directors of all executive branch agencies and programs shall make every effort to develop agreements specifying the positions to be transferred from the executive branch agency or program to the department no later than August 31, 2005.
 - (c) If the transition director and a director fails to reach an agreement on the positions to be transferred under this Subsection (3):
 - (i) the transition director shall submit the transition director's recommendation to the governor and to the commission by no later than August 31, 2005 for their consideration;
 - (ii) the commission may recommend to the governor the position or function to be transferred to the department; and
 - (iii) the governor shall determine whether to transfer the position or function to the department.
- (4) The transition director shall:
 - (a) immediately initiate coordination with the directors of all executive branch agencies affected by this bill to facilitate the transfer of programs, positions, and administrative functions; and
 - (b) develop memoranda of record identifying any of the following related to the authority to be transferred:
 - (i) a pending settlement;
 - (ii) an issue of compliance with applicable federal and state laws and regulations; or
 - (iii) other obligation to be resolved.
- (5) Notwithstanding Subsection 63-38-3.5(8)(f)(i), all records, personnel, property, equipment, grants, unexpended and unexpired balances of appropriations, allocations and other funds used, held,

employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities transferred to the department by this bill shall transfer to the department:

- (a) at the direction of:
 - (i) the transition director; and
 - (ii) the Governor's Office of Planning and Budget; and
 - (b) in accordance with the Utah Technology Governance Act.
- (6) The transition director shall:
- (a) administer the functions of this bill in a manner that promotes efficient administration; and
 - (b) make internal organizational changes as necessary to complete the realignment of responsibilities required by this bill and the Utah Technology Governance Act.
- (7) (a) The transition director and other individuals designated by the governor may request the assistance of an executive branch agency with respect to:
- (i) personnel;
 - (ii) budgeting;
 - (iii) procurement;
 - (iv) information systems; or
 - (v) other management related functions.
- (b) An executive branch agency shall provide assistance request under this Subsection (7).
- (8) (a) The transition director may temporarily hire or retain contractors, subcontractors, or advisors as the transition director considers necessary for the strategic planning and implementation of the transition.
- (b) A temporary person hired or contracted with under this Subsection (8):
- (i) must be selected in accordance with Title 63, Chapter 56, Utah Procurement Code; and
 - (ii) shall be terminated by July 30, 2006.
- (9) After consultation with the transition director and the governor, the state budget director shall:
- (a) determine the most efficient process necessary for transitioning the technology budgets of the various executive branch agencies including the Division of Information Technology Services to the department;
 - (b) submit a supplemental budget request and, if needed, a 2006-07 budget recommendation to the commission by October 31, 2005 and to the Legislature before the 2006 General Session detailing steps necessary to transition employees, activities, assets, liabilities, budgets, and other authorities of appropriated and internal services fund technology functions into the department;
 - (c) in accordance with Subsection 63-38-3.5(4)(b), establish interim rates for products and services to be provided on a capital maintenance and cost reimbursement basis and to be recovered through interagency billing such that the interim rates:
 - (i) are based upon a zero based, full cost accounting of activities necessary to provide each service for which a rate is established;
 - (ii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of the service; and
 - (iii) are submitted to the Legislature for authorization in accordance with Subsection 63-38-3.5(4)(b); and
 - (d) handle the financial transactions and records in the state's financial management and records system during the period of transition.
- (10) A rule, order, contract, grant, or agreement relating to the functions of the Department of Technology Services lawfully adopted before [date] by the responsible state executive branch agency continues to be effective until revised, amended, or rescinded.

- (11) A suit, action, or other proceeding lawfully commenced by, against, or before an entity affected by this chapter does not abate by reason of this bill.
- (12) Beginning July 1, 2005, the transition director shall provide a report to the commission on a quarterly basis concerning the progress and implementation of the executive branch transition of information technology functions to the department.
- (13) The transition director shall include in the report recommendations for the 2006 Legislature regarding any statutory changes that are needed to make the transition complete.
- (14) The transition director's authority under this bill ends on December 31, 2006.

Estates

75-8-101. Time of taking effect -- Provisions for transition.

- (1) This [title/chapter/part] takes effect on July 1, 1977.
- (2) Except as provided elsewhere in this [title/chapter/part], on July 1, 1977:
 - (a) this [title/chapter/part] applies to a will of a decedent dying after July 1, 1977;
 - (b) this [title/chapter/part] applies to a proceeding in court pending as of July 1, 1977, or commenced on or after July 1, 1997, regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this [title/chapter/part];
 - (c) a personal representative, including a person administering an estate of a minor or incompetent, holding an appointment on July 1, 1997, continues to hold the appointment but has only the powers conferred by this [title/chapter/part] and is subject to the duties imposed with respect to an act occurring or done after July 1, 1997;
 - (d) an act done before July 1, 1977, in a proceeding and an accrued right is not impaired by this [title/chapter/part];
 - (e) if a right is acquired, extinguished or barred upon the expiration of a prescribed period of time that commenced to run by the provision of a statute before July 1, 1977, the provision governs with respect to that right; and
 - (f) a rule of construction or presumption provided in this [title/chapter/part] applies to an instrument executed or a multiple-party account opened before July 1, 1997, unless there is a clear indication of a contrary intent.

Insurance Policy

31A-22-1306. Transition provision for existing policy forms.

An insurance policy form need not conform to the requirements of this chapter until July 1, 1987. An insurance policy issued after July 1, 1986, is subject to Section 31A-21-107.

Law That Governs

31A-5-108. Transition provision for former mutual benefit associations, cooperative associations, county mutuals, and reciprocal insurers.

- (1) Except as otherwise provided in this title, a domestic stock or mutual insurance corporation, including an incorporated mutual benefit association, a county mutual, a reciprocal insurer, or an incorporated cooperative association, holding a valid certificate of authority on July 1, 1986, continues to be authorized within the limits of its certificate of authority. An incorporated mutual benefit association, county mutual, reciprocal insurer, or cooperative association becomes a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual by operation of law on July 1, 1986.
- (2) If timely adjustment to the requirements of Chapter 5 would cause an existing stock or mutual insurance corporation hardship, disproportionate expense, or serious inconvenience, the commissioner may, upon the corporation's request, grant an extension for compliance with specified requirements, if the interests of insureds and the public are not endangered. The extension may not

be beyond July 1, 1988.

31A-37a-105. Transition.

- (1) (a) Except as otherwise determined by the commissioner, a captive insurance company that on May 5, 2008 has a certificate of authority from the commissioner pursuant to Chapter 37, Captive Insurance Companies Act, and engages in insurance securitization:
 - (i) is subject to this chapter as a special purpose financial captive insurance company; and
 - (ii) is considered to have a certificate of authority issued under this chapter.
- (b) The commissioner may require a captive insurance company described in Subsection (1)(a) to take an action that the commissioner determines is reasonably necessary to bring the captive insurance company into compliance with this chapter.
- (2) The commissioner may issue an order described in Section 31A-37a-201 with respect to a captive insurance company described in Subsection (1)(a) if the captive insurance company is not in compliance with this chapter.

75-8-101. Time of taking effect -- Provisions for transition.

- (1) This [title/chapter/part] takes effect on July 1, 1977.
- (2) Except as provided elsewhere in this [title/chapter/part], on July 1, 1977:
 - (a) this [title/chapter/part] applies to a will of a decedent dying after July 1, 1977;
 - (b) this [title/chapter/part] applies to a proceeding in court pending as of July 1, 1977, or commenced on or after July 1, 1997, regardless of the time of the death of decedent except to the extent that in the opinion of the court the former procedure should be made applicable in a particular case in the interest of justice or because of infeasibility of application of the procedure of this [title/chapter/part];
 - (c) a personal representative, including a person administering an estate of a minor or incompetent, holding an appointment on July 1, 1997, continues to hold the appointment but has only the powers conferred by this [title/chapter/part] and is subject to the duties imposed with respect to an act occurring or done after July 1, 1997;
 - (d) an act done before July 1, 1977, in a proceeding and an accrued right is not impaired by this [title/chapter/part];
 - (e) if a right is acquired, extinguished or barred upon the expiration of a prescribed period of time that commenced to run by the provision of a statute before July 1, 1977, the provision governs with respect to that right; and
 - (f) a rule of construction or presumption provided in this [title/chapter/part] applies to an instrument executed or a multiple-party account opened before July 1, 1997, unless there is a clear indication of a contrary intent.

License or Registration

13-33-305. Transition of licenses.

- (1) A license that was issued by the Division of Occupational and Professional Licensing under Title 58, Chapter 66, Utah Professional Boxing Regulation Act, before July 1, 2001, and in effect on June 30, 2001:
 - (a) is considered a valid license under this chapter until the expiration date indicated on the license;
 - (b) is subject to this chapter, including provisions relating to disciplinary action against the license; and
 - (c) may not be renewed under Title 58, Occupations and Professions.
- (2) Upon the expiration of a license described in Subsection (1), a person desiring to continue licensure in the profession shall meet the same requirements as those required for new licensure under Section 13-33-301.

13-42-140. Transitional provisions -- Application to existing transactions.

- (1) A transaction entered into before July 1, 2007 and the rights, duties, and interests resulting from the transaction may be completed, terminated, or enforced as required or permitted by a law amended, repealed, or modified by this chapter as though the amendment, repeal, or modification had not occurred.
- (2)
 - (a) A person registered under Chapter 21, Credit Services Organizations Act, on June 30, 2007, that is required to be registered under this chapter on July 1, 2007, is considered to be registered under this chapter until the license in effect on June 30, 2007, expires.
 - (b) Notwithstanding Subsection (2)(a), except for the registration requirement, a person subject to this chapter shall comply with this chapter for a transaction entered into on or after July 1, 2007.

26-8a-416. Transition to eliminate inconsistent licenses.

- (1) By May 30, 2000, the department shall review licenses in effect on October 2, 1999, to identify overlap, as defined in department rule, in the service areas of two or more licensed providers.
- (2) By June 30, 2000, the department shall notify a licensed provider affected by an overlap. By September 30, 2000, the department shall schedule, by order, a deadline to resolve each overlap, considering the effects on the licensed providers and the areas to be addressed.
- (3) For each overlap, the department shall meet with the affected licensed providers and provide 120 days for a negotiated resolution, consistent with the criteria in Section 26-8a-408.
- (4)
 - (a) If a resolution is reached under Subsection (2) that the department finds satisfies the criteria in Section 26-8a-408, the department shall amend the licenses to reflect the resolution consistent with Subsection (6).
 - (b) If a resolution is not reached under Subsection (2), the department or a licensed provider involved in the matter may request the commencement of a formal adjudicative proceeding to resolve the overlap.
- (5) The department shall commence adjudicative proceedings for a overlap that is not resolved by July 1, 2003.
- (6) Notwithstanding the exclusive geographic service requirement of Section 26-8a-402, the department may amend one or more licenses after a resolution is reached or an adjudicative proceeding is held to allow:
 - (a) a single licensed provider to serve all or part of an overlap area;
 - (b) more than one licensed provider to serve an overlap area;
 - (c) licensed providers to provide different types of service in an overlap area; or
 - (d) a license that recognizes a service arrangement that existed on September 30, 1999.
- (7) Notwithstanding Subsection (6), a license for an overlap area terminates upon:
 - (a) relinquishment by the licensed provider; or
 - (b) revocation by the department.

58-26a-302. . . . -- Transitional provisions.

. . .

- (4) An individual has until July 1, 2004, to obtain three years of qualifying experience for licensure without being required to complete the education requirement if that individual:
 - (a) was approved to take the qualifying examinations before July 1, 1994, under prior law without completion of the education requirement; and
 - (b)
 - (i) passed the AICPA Uniform CPA Examination before July 1, 1994; or
 - (ii) received conditional credits on the AICPA Uniform CPA Examination before July 1, 1994, and subsequently passed all parts of the AICPA Uniform CPA Examination within six immediately successive examination administrations.

58-60-511. Experience requirement -- Transition of licensing and experience.

- (1) Except as otherwise approved in writing by the board and the division, hours of experience required by Section 58-60-506 that are earned after January 1, 2008, shall be earned while the person earning the hours is licensed under this part.
- (2) An applicant working toward licensure under rules in effect before July 1, 2007 who has 200 or more hours of addiction-specific training conducted at an approved agency before July 1, 2007 may apply in writing to extend the time to complete the remainder of the training requirement until July 1, 2008.
- (3)
 - (a) The division may grant an applicant credit for up to 3,000 hours of experience required under this part for hours completed before January 1, 2008.
 - (b) The division shall grant a request for credit under Subsection (3)(a) if the experience completed before January 1, 2008 is reasonably equivalent to the experience required by this part.

61-2b-10.5. . . . -- Transition to state-licensed or state-certified appraisers.

- (1) A person who was registered as a state-registered appraiser under this chapter before May 3, 1999, has the same authority as a state-licensed appraiser under this chapter for as long as the registration of that person remains current, but in no event after May 3, 2001.
- (2) The division may not issue a registration on or after May 3, 1999, except as provided in Subsection 61-2b-6(2).
- (3) The division may renew a registration of a person who was registered as a state-registered appraiser as of May 3, 1999, under this chapter until May 3, 2001. A registration renewed under this Subsection (3) expires on May 3, 2001.
- (4) A person who was registered as a state-registered appraiser under this chapter before May 3, 1999, may have that registration converted to a license or certification if that person meets the requirements for licensure or certification under this chapter.

63C-11-312. Transition of licenses.

- (1) A license that is issued by the Department of Commerce under Title 13, Chapter 33, Pete Suazo Utah Athletic Commission Act, before July 1, 2007:
 - (a) is considered a valid license under this part until the expiration date indicated on the license;
 - (b) is subject to this part, including provisions relating to disciplinary action against the license; and
 - (c) may not be renewed under Title 58, Occupations and Professions.
- (2) Upon the expiration of a license described in Subsection (1), a person desiring to continue licensure in the profession shall meet the same requirements as those required for new licensure under Section 63C-11-308.

Lien

70A-9a-702. Savings clause.

- (1) Except as otherwise provided in this part, this chapter applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before [date].
- (2) Except as otherwise provided in Subsection (3) and Sections 70A-9a-703 through 70A-9a-709:
 - (a) a transaction or lien that was not governed by former Chapter 9, was validly entered into or created before [date], and would be subject to this [title/chapter/part/section] if it had been entered into or created after [date], and the rights, duties, and interests flowing from the transaction or lien remain valid after [date]; and
 - (b) a transaction or lien described in Subsection (2)(a) may be terminated, completed, consummated, and enforced as required or permitted by this [title/chapter/part/section] or by the law that otherwise would apply if this [title/chapter/part/section] had not taken effect.

- (3) This [title/chapter/part/section] does not affect an action, case, or proceeding commenced before [date].

New Government Entity

Section x. Transition to new department.

- (1) As used in this chapter:
- (2) The chief information officer shall serve as the transition director to provide executive direction and supervision for the implementation of all transfers of authority and technology functions in the executive branch to the department that are made pursuant to this bill and the Utah Technology Governance Act.
- (3) (a) The transition director and the directors of all executive branch agencies shall jointly identify the program positions and administrative function positions that will be transferred to the department according to the Utah Technology Governance Act.
- (b) The transition director and the directors of all executive branch agencies and programs shall make every effort to develop agreements specifying the positions to be transferred from the executive branch agency or program to the department no later than August 31, 2005.
- (c) If the transition director and a director fails to reach an agreement on the positions to be transferred under this Subsection (3):
- (i) the transition director shall submit the transition director's recommendation to the governor and to the commission by no later than August 31, 2005 for their consideration;
- (ii) the commission may recommend to the governor the position or function to be transferred to the department; and
- (iii) the governor shall determine whether to transfer the position or function to the department.
- (4) The transition director shall:
- (a) immediately initiate coordination with the directors of all executive branch agencies affected by this bill to facilitate the transfer of programs, positions, and administrative functions; and
- (b) develop memoranda of record identifying any of the following related to the authority to be transferred:
- (i) a pending settlement;
- (ii) an issue of compliance with applicable federal and state laws and regulations; or
- (iii) other obligation to be resolved.
- (5) Notwithstanding Subsection 63-38-3.5(8)(f)(i), all records, personnel, property, equipment, grants, unexpended and unexpired balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities transferred to the department by this bill shall transfer to the department:
- (a) at the direction of:
- (i) the transition director; and
- (ii) the Governor's Office of Planning and Budget; and
- (b) in accordance with the Utah Technology Governance Act.
- (6) The transition director shall:
- (a) administer the functions of this bill in a manner that promotes efficient administration; and
- (b) make internal organizational changes as necessary to complete the realignment of responsibilities required by this bill and the Utah Technology Governance Act.
- (7) (a) The transition director and other individuals designated by the governor may request the assistance of an executive branch agency with respect to:
- (i) personnel;
- (ii) budgeting;
- (iii) procurement;
- (iv) information systems; or

- (v) other management related functions.
- (b) An executive branch agency shall provide assistance request under this Subsection (7).
- (8) (a) The transition director may temporarily hire or retain contractors, subcontractors, or advisors as the transition director considers necessary for the strategic planning and implementation of the transition.
- (b) A temporary person hired or contracted with under this Subsection (8):
 - (i) must be selected in accordance with Title 63, Chapter 56, Utah Procurement Code; and
 - (ii) shall be terminated by July 30, 2006.
- (9) After consultation with the transition director and the governor, the state budget director shall:
 - (a) determine the most efficient process necessary for transitioning the technology budgets of the various executive branch agencies including the Division of Information Technology Services to the department;
 - (b) submit a supplemental budget request and, if needed, a 2006-07 budget recommendation to the commission by October 31, 2005 and to the Legislature before the 2006 General Session detailing steps necessary to transition employees, activities, assets, liabilities, budgets, and other authorities of appropriated and internal services fund technology functions into the department;
 - (c) in accordance with Subsection 63-38-3.5(4)(b), establish interim rates for products and services to be provided on a capital maintenance and cost reimbursement basis and to be recovered through interagency billing such that the interim rates:
 - (i) are based upon a zero based, full cost accounting of activities necessary to provide each service for which a rate is established;
 - (ii) for each service multiplied by the projected consumption of the service recovers no more or less than the full cost of the service; and
 - (iii) are submitted to the Legislature for authorization in accordance with Subsection 63-38-3.5(4)(b); and
 - (d) handle the financial transactions and records in the state's financial management and records system during the period of transition.
- (10) A rule, order, contract, grant, or agreement relating to the functions of the Department of Technology Services lawfully adopted before [date] by the responsible state executive branch agency continues to be effective until revised, amended, or rescinded.
- (11) A suit, action, or other proceeding lawfully commenced by, against, or before an entity affected by this chapter does not abate by reason of this bill.
- (12) Beginning July 1, 2005, the transition director shall provide a report to the commission on a quarterly basis concerning the progress and implementation of the executive branch transition of information technology functions to the department.
- (13) The transition director shall include in the report recommendations for the 2006 Legislature regarding any statutory changes that are needed to make the transition complete.
- (14) The transition director's authority under this bill ends on December 31, 2006.

Pending Court or Administrative Proceeding

10-1-109. Saving clause.

- (1) The repeal of a title, chapter, or section specified in Section 10-1-114 does not:
 - (a) affect a suit pending or a right existing immediately prior to [date];
 - (b) impair, avoid, or affect a grant or conveyance made or right acquired or cause of action now existing under a repealed [title/chapter/part/section] or amendment to a repealed [title/chapter/part/section]; or
 - (c) affect or impair the validity of a bond or other obligation issued or sold prior to [date].
- (2) The repeal of a validating [title/chapter/part/section] or part of a [title/chapter/part/section] does not

avoid the effect of the validation. An [title/chapter/part/section] repealed by Section 10-1-114 may not repeal an [title/chapter/part/section] or part of an [title/chapter/part/section] that embraces the same or similar subject matter as the [title/chapter/part/section] repealed.

16-16-1703. Savings clause.

This chapter does not affect an action or proceeding commenced, or right accrued, before May 5, 2008.

63G-4-105. Transition procedures.

- (1) The procedures for agency action, agency review, and judicial review contained in this chapter are applicable to an agency adjudicative proceeding commenced by or before an agency on or after January 1, 1988.
- (2) A statute or rule governing agency action, agency review, and judicial review that is in effect on December 31, 1987, governs an agency adjudicative proceeding commenced by or before an agency on or before December 31, 1987, even if the proceeding is pending before an agency or a court on January 1, 1988.

70A-8-601. Transition provisions.

- (1) This [title/chapter/part] does not affect an action or proceeding commenced before [date]. (2)(a) If a security interest in a security is perfected as of [date], and the action by which the security interest was perfected would suffice to perfect a security interest under this [title/chapter/part], no further action is required to continue perfection.
 - (b) (i) If a security interest in a security is perfected as of [date] but the action by which the security interest was perfected would not suffice to perfect a security interest under this [title/chapter/part], the security interest remains perfected for a period of four months after [date] and continues perfected for the four-month period if appropriate action to perfect under this [title/chapter/part] is taken within that four-month period.
 - (ii) If a security interest is perfected as of [date] and the security interest can be perfected by filing under this [title/chapter/part], a financing statement signed by the secured party instead of the debtor may be filed within the four-month period described in this Subsection (2) to continue perfection or after the four-month period to perfect.

70A-9a-702. Savings clause.

- (1) Except as otherwise provided in this part, this chapter applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before [date].
- (2) Except as otherwise provided in Subsection (3) and Sections 70A-9a-703 through 70A-9a-709:
 - (a) a transaction or lien that was not governed by former Chapter 9, was validly entered into or created before [date], and would be subject to this [title/chapter/part/section] if it had been entered into or created after [date], and the rights, duties, and interests flowing from the transaction or lien remain valid after [date]; and
 - (b) a transaction or lien described in Subsection (2)(a) may be terminated, completed, consummated, and enforced as required or permitted by this [title/chapter/part/section] or by the law that otherwise would apply if this [title/chapter/part/section] had not taken effect.
- (3) This [title/chapter/part/section] does not affect an action, case, or proceeding commenced before [date].

75-5b-503. Transitional provision.

- (1) This chapter applies to a guardianship or protective proceeding begun on or after January 1, 2009.
- (2) Parts 1, 3, and 4 and Sections 75-5b-501 and 75-5b-502 apply to a proceeding begun before January 1, 2009, regardless of whether a guardianship or protective order has been issued.

78A-1-107. Savings clause -- Recodification of Title 78.

The provisions of Title 78A, Judiciary and Judicial Administration, and Title 78B, Judicial Code, are considered a continuation of the previous Title 78, Judicial Code. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in a court on February 7, 2008 shall result from the enactment of Titles 78A and 78B. With respect to the organization of the courts, the offices of all officers and employees, shall be construed as continuations of the previous Title 78, Judicial Code. The tenure of justices, judges, justices of the peace, officers, and employees of the courts in office on February 7, 2008 is not affected by its enactment.

78B-13-318. Transitional provision.

A motion or other request for relief made in a child custody or enforcement proceeding which was commenced before [date] is governed by the law in effect at the time the motion or other request was made.

78B-15-902. Transitional provision.

A proceeding to adjudicate parentage that was commenced before May 1, 2005 is governed by the law in effect at the time the proceeding was commenced.

Regulation of Entity Being Changed

31A-5-108. Transition provision for former mutual benefit associations, cooperative associations, county mutuals, and reciprocal insurers.

- (1) Except as otherwise provided in this title, a domestic stock or mutual insurance corporation, including an incorporated mutual benefit association, a county mutual, a reciprocal insurer, or an incorporated cooperative association, holding a valid certificate of authority on July 1, 1986, continues to be authorized within the limits of its certificate of authority. An incorporated mutual benefit association, county mutual, reciprocal insurer, or cooperative association becomes a Chapter 5, Domestic Stock and Mutual Insurance Corporations, mutual by operation of law on July 1, 1986.
- (2) If timely adjustment to the requirements of Chapter 5 would cause an existing stock or mutual insurance corporation hardship, disproportionate expense, or serious inconvenience, the commissioner may, upon the corporation's request, grant an extension for compliance with specified requirements, if the interests of insureds and the public are not endangered. The extension may not be beyond July 1, 1988.

31A-37a-105. Transition.

- (1)
 - (a) Except as otherwise determined by the commissioner, a captive insurance company that on May 5, 2008 has a certificate of authority from the commissioner pursuant to Chapter 37, Captive Insurance Companies Act, and engages in insurance securitization:
 - (i) is subject to this chapter as a special purpose financial captive insurance company; and
 - (ii) is considered to have a certificate of authority issued under this chapter.
 - (b) The commissioner may require a captive insurance company described in Subsection (1)(a) to take an action that the commissioner determines is reasonably necessary to bring the captive insurance company into compliance with this chapter.
- (2) The commissioner may issue an order described in Section 31A-37a-201 with respect to a captive insurance company described in Subsection (1)(a) if the captive insurance company is not in compliance with this chapter.

48-2c-1902. Transitional provisions.

- (1) A limited liability company formed before July 1, 2001, under the laws of this state, and existing on July 1, 2001:
 - (a) continues in existence with the rights and privileges applicable to a limited liability company formed under this chapter;
 - (b) need not amend its articles of organization to include the address of its designated office if it

- includes the information in its first annual report filed with the division after July 1, 2001, and in subsequent annual reports; and
- (c) that provides professional services as defined in Part 15, Profession, need not amend its articles of organization to comply with Section 48-2c-1509 if it includes the information in its first annual report filed with the division after July 1, 2001, and in subsequent annual reports.
 - (2) A domestic company formed before July 1, 2001, under the laws this state, as well as the company's managers, members, and assignees of members, as applicable, have the rights and privileges and are subject to the requirements, restrictions, duties, liabilities, and remedies prescribed in this chapter.
 - (3) A foreign limited liability company authorized to transact business in this state as of July 1, 2001, is subject to this chapter, but is not required by reason of enactment of this chapter to obtain a new certificate of authority to transact business in this state.

Security Interest

70A-8-601. Transition provisions.

- (1) This [title/chapter/part] does not affect an action or proceeding commenced before [date]. (2)(a) If a security interest in a security is perfected as of [date], and the action by which the security interest was perfected would suffice to perfect a security interest under this [title/chapter/part], no further action is required to continue perfection.
 - (b)
 - (i) If a security interest in a security is perfected as of [date] but the action by which the security interest was perfected would not suffice to perfect a security interest under this [title/chapter/part], the security interest remains perfected for a period of four months after [date] and continues perfected for the four-month period if appropriate action to perfect under this [title/chapter/part] is taken within that four-month period.
 - (ii) If a security interest is perfected as of [date] and the security interest can be perfected by filing under this [title/chapter/part], a financing statement signed by the secured party instead of the debtor may be filed within the four-month period described in this Subsection (2) to continue perfection or after the four-month period to perfect.

Should be Codified in the Future

Section x. Transition to new department.

- (1) As used in this chapter:
- (2) The chief information officer shall serve as the transition director to provide executive direction and supervision for the implementation of all transfers of authority and technology functions in the executive branch to the department that are made pursuant to this bill and the Utah Technology Governance Act.
- (3)
 - (a) The transition director and the directors of all executive branch agencies shall jointly identify the program positions and administrative function positions that will be transferred to the department according to the Utah Technology Governance Act.
 - (b) The transition director and the directors of all executive branch agencies and programs shall make every effort to develop agreements specifying the positions to be transferred from the executive branch agency or program to the department no later than August 31, 2005.
 - (c) If the transition director and a director fails to reach an agreement on the positions to be transferred under this Subsection (3):
 - (i) the transition director shall submit the transition director's recommendation to the governor and to the commission by no later than August 31, 2005 for their consideration;
 - (ii) the commission may recommend to the governor the position or function to be transferred to the department; and
 - (iii) the governor shall determine whether to transfer the position or function to the department.
- (4) The transition director shall:
 - (a) immediately initiate coordination with the directors of all executive branch agencies affected

- by this bill to facilitate the transfer of programs, positions, and administrative functions; and
 - (b) develop memoranda of record identifying any of the following related to the authority to be transferred:
 - (i) a pending settlement;
 - (ii) an issue of compliance with applicable federal and state laws and regulations; or
 - (iii) other obligation to be resolved.
- (5) Notwithstanding Subsection 63-38-3.5(8)(f)(i), all records, personnel, property, equipment, grants, unexpended and unexpired balances of appropriations, allocations and other funds used, held, employed, available, or to be made available to any entity for the activities, powers, duties, functions, and responsibilities transferred to the department by this bill shall transfer to the department:
 - (a) at the direction of:
 - (i) the transition director; and
 - (ii) the Governor's Office of Planning and Budget; and
 - (b) in accordance with the Utah Technology Governance Act.
- (6) The transition director shall:
 - (a) administer the functions of this bill in a manner that promotes efficient administration; and
 - (b) make internal organizational changes as necessary to complete the realignment of responsibilities required by this bill and the Utah Technology Governance Act.
- (7) (a) The transition director and other individuals designated by the governor may request the assistance of an executive branch agency with respect to:
 - (i) personnel;
 - (ii) budgeting;
 - (iii) procurement;
 - (iv) information systems; or
 - (v) other management related functions.
 - (b) An executive branch agency shall provide assistance request under this Subsection (7).
- (8) (a) The transition director may temporarily hire or retain contractors, subcontractors, or advisors as the transition director considers necessary for the strategic planning and implementation of the transition.
 - (b) A temporary person hired or contracted with under this Subsection (8):
 - (i) must be selected in accordance with Title 63, Chapter 56, Utah Procurement Code; and
 - (ii) shall be terminated by July 30, 2006.
- (9) After consultation with the transition director and the governor, the state budget director shall:
 - (a) determine the most efficient process necessary for transitioning the technology budgets of the various executive branch agencies including the Division of Information Technology Services to the department;
 - (b) submit a supplemental budget request and, if needed, a 2006-07 budget recommendation to the commission by October 31, 2005 and to the Legislature before the 2006 General Session detailing steps necessary to transition employees, activities, assets, liabilities, budgets, and other authorities of appropriated and internal services fund technology functions into the department;
 - (c) in accordance with Subsection 63-38-3.5(4)(b), establish interim rates for products and services to be provided on a capital maintenance and cost reimbursement basis and to be recovered through interagency billing such that the interim rates:
 - (i) are based upon a zero based, full cost accounting of activities necessary to provide each service for which a rate is established;
 - (ii) for each service multiplied by the projected consumption of the service recovers no

- more or less than the full cost of the service; and
 - (iii) are submitted to the Legislature for authorization in accordance with Subsection 63-38-3.5(4)(b); and
 - (d) handle the financial transactions and records in the state's financial management and records system during the period of transition.
- (10) A rule, order, contract, grant, or agreement relating to the functions of the Department of Technology Services lawfully adopted before [date] by the responsible state executive branch agency continues to be effective until revised, amended, or rescinded.
- (11) A suit, action, or other proceeding lawfully commenced by, against, or before an entity affected by this chapter does not abate by reason of this bill.
- (12) Beginning July 1, 2005, the transition director shall provide a report to the commission on a quarterly basis concerning the progress and implementation of the executive branch transition of information technology functions to the department.
- (13) The transition director shall include in the report recommendations for the 2006 Legislature regarding any statutory changes that are needed to make the transition complete.
- (14) The transition director's authority under this bill ends on December 31, 2006.

Taxation

59-7-804. Transition rule --

Net operating losses are recognized to the extent recognized for federal purposes even if incurred before [date]. . . .

63M-1-2408. Transition clause -- Renegotiation of agreements -- Payment of partial rebates.

- (1) As used in this section, "partial rebate" means an agreement . . . under which the state agrees to pay . . .
- (2)
 - (a) Unless modified or renegotiated as provided in Subsection (2)(b), the Division of Finance shall make a partial rebate payment due under an agreement entered into by the office before May 5, 2008 as provided in this section.
 - (b) By January 1, 2009, the office shall:
 - (i) contact each business entity with whom the office entered into an agreement under former Section 63M-1-1304 or 63M-1-1704; and
 - (ii) subject to the limits established in Subsection 63M-1-2404(3)(b), seek to modify those agreements for the sole purpose of providing the incentives in the form of tax credits under this part rather than partial rebates.
 - (c) The office shall:
 - (i) for a modified agreement granting a tax credit, follow the procedures and requirements of Section 63M-1- 2405;
 - (ii) for an agreement that still requires the state to pay a partial rebate to the business entity, follow the procedures and requirements of this section; and
 - (iii) provide a report to the Executive Appropriations Committee and the Legislative Fiscal Analyst by December 1, 2008, about the progress of its efforts to modify agreements reached before May 5, 2008. . .

Transaction

13-42-140. Transitional provisions -- Application to existing transactions.

- (1) A transaction entered into before July 1, 2007 and the rights, duties, and interests resulting from the transaction may be completed, terminated, or enforced as required or permitted by a law amended, repealed, or modified by this chapter as though the amendment, repeal, or modification had not occurred.
- (2)
 - (a) A person registered under Chapter 21, Credit Services Organizations Act, on June 30, 2007,

that is required to be registered under this chapter on July 1, 2007, is considered to be registered under this chapter until the license in effect on June 30, 2007, expires.

- (b) Notwithstanding Subsection (2)(a), except for the registration requirement, a person subject to this chapter shall comply with this chapter for a transaction entered into on or after July 1, 2007.

70A-10-102. . . . -- Provision for transition.

. . . (2) A transaction validly entered into before the effective date specified in Section 70A-10-101 and the rights, duties and interests flowing from the transaction remain valid after the effective date specified in Section 70A-10-101 and may be terminated, completed, consummated or enforced as required or permitted by a statute or other law amended or repealed by this [title/chapter/part] as though the repeal or amendment had not occurred.

70A-5-120. Savings clause.

A transaction arising out of or associated with a letter of credit that was issued before July 1, 1997, and the rights, obligations, and interests flowing from that transaction are governed by a statute or other law amended or repealed by this [title/chapter/part/section] as if repeal or amendment had not occurred and may be terminated, completed, consummated, or enforced under that statute or other law.

70A-8-601. Transition provisions.

- (1) This [title/chapter/part] does not affect an action or proceeding commenced before [date]. (2)(a) If a security interest in a security is perfected as of [date], and the action by which the security interest was perfected would suffice to perfect a security interest under this [title/chapter/part], no further action is required to continue perfection.
 - (b) (i) If a security interest in a security is perfected as of [date] but the action by which the security interest was perfected would not suffice to perfect a security interest under this [title/chapter/part], the security interest remains perfected for a period of four months after [date] and continues perfected for the four-month period if appropriate action to perfect under this [title/chapter/part] is taken within that four-month period.
 - (ii) If a security interest is perfected as of [date] and the security interest can be perfected by filing under this [title/chapter/part], a financing statement signed by the secured party instead of the debtor may be filed within the four-month period described in this Subsection (2) to continue perfection or after the four-month period to perfect.

70A-9a-702. Savings clause.

- (1) Except as otherwise provided in this part, this chapter applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before [date].
- (2) Except as otherwise provided in Subsection (3) and Sections 70A-9a-703 through 70A-9a-709:
 - (a) a transaction or lien that was not governed by former Chapter 9, was validly entered into or created before [date], and would be subject to this [title/chapter/part/section] if it had been entered into or created after [date], and the rights, duties, and interests flowing from the transaction or lien remain valid after [date]; and
 - (b) a transaction or lien described in Subsection (2)(a) may be terminated, completed, consummated, and enforced as required or permitted by this [title/chapter/part/section] or by the law that otherwise would apply if this [title/chapter/part/section] had not taken effect.
- (3) This [title/chapter/part/section] does not affect an action, case, or proceeding commenced before [date].

APPENDIX L

Coordination Clause Scenarios

The numbers of coordination clauses needed increases exponentially with the number of bills being coordinated (4 coordination clauses for 3 bills, 12 coordination clauses for 4 bills, 26 coordination clauses for 5 bills, 56 coordination clauses for 6 bills, etc.), so a drafter should make every effort possible to avoid coordinating more than three bills.

Scenarios to address in bill coordination based on number of bills coordinated:

Number of Bills Being Coordinated					
	3 Bills (4 CCs)	4 Bills (12 CCs)	5 Bills (26 CCs)	6 Bills (56 CCs)	
2 pass	A+B (not C) A+C (not B) B+C (not A)	A+B (not C or D) A+C (not B or D) A+D (not B or C) B+C (not A or D) B+D (not A or C) C+D (not A or B)	A+B (not C or D or E) A+C (not B or D or E) A+D (not B or C or E) A+E (not B or C or D) B+C (not A or D or E) B+D (not A or C or E) B+E (not A or C or D) C+D (not A or B or E) C+E (not A or B or D) D+E (not A or B or C)	A+B (not C or D or E or F) A+C (not B or D or E or F) A+D (not B or C or E or F) A+E (not B or C or D or F) A+F (not B or C or D or E) B+C (not A or D or E or F) B+D (not A or C or E or F) B+E (not A or C or D or F)	B+F (not A or C or D or E) C+D (not A or B or E or F) C+E (not A or B or D or F) C+F (not A or B or D or E) D+E (not A or B or C or F) D+F (not A or B or C or E) E+F (not A or B or C or D)
3 pass	A+B+C	A+B+C (not D) A+B+D (not C) A+C+D (not B) B+C+D (not A)	A+B+C (not D or E) A+B+D (not C or E) A+B+E (not C or D) A+C+D (not B or E) A+C+E (not B or D) B+C+D (not A or E) B+C+E (not A or D) B+D+E (not A or C) C+D+E (not A or B)	A+B+C (not D or E or F) A+B+D (not C or E or F) A+C+D (not B or E or F) B+C+D (not A or E or F) A+B+E (not C or D or F) A+C+E (not B or D or F) B+C+E (not A or D or F) A+D+E (not B or C or F) B+D+E (not A or C or F)	C+D+E (not A or B or F) A+B+F (not C or D or E) A+C+F (not B or D or E) A+D+F (not B or C or E) B+C+F (not A or D or E) C+D+F (not A or B or E) A+E+F (not B or C or D) B+E+F (not A or C or D) D+E+F (not A or B or C)
4 pass		A+B+C+D	A+B+C+E (not E) A+B+C+E (not D) A+B+D+E (not C) A+C+D+E (not B) B+C+D+E (not A)	A+B+C+D (not E or F) A+B+C+E (not D or F) A+B+D+E (not C or F) A+C+D+E (not B or F) B+C+D+E (not A or F) A+B+C+F (not D or E) A+B+D+F (not C or E) A+C+D+F (not B or E)	B+C+D+F (not A or E) A+B+E+F (not C or D) A+C+E+F (not B or D) B+C+E+F (not A or D) A+D+E+F (not B or C) B+D+E+F (not A or C) C+D+E+F (not A or B)
5 pass			A+B+C+D+E	A+B+C+D+E (not F) A+B+C+D+F (not E) A+B+C+E+F (not D)	A+B+D+E+F (not C) A+C+D+E+F (not B) B+C+D+E+F (not A)
6 pass				A+B+C+D+E+F	



Recodification

- **What is a recodification?**
 - A recodification is legislation that restructures and reorganizes an existing title, chapter, or part in the Utah Code.
- **Why recodify?**
 - An existing title, chapter, or part needs:
 - to be replaced;
 - to be substantially reworked; or
 - to be renumbered to allow for better development of an area of the law.

Process and Deadlines

- **Process**
 - The drafter must include the Legal Research Team and Bill and Data Management in the planning and keep them informed through the drafting of a recodification.
 - Extensive, lengthy recodifications should be drafted in a “ghost database” in coordination with Bill and Data Management and passed the first week of session with immediate effective dates. Shorter, more discrete recodifications may be drafted like regular bills. Recodifications that are drafted and passed in a special session may be drafted in the regular database. The drafting database decision must be made in consultation with Bill and Data Management and the Legal Research Team.
- **Deadlines**
 - Unless a recodification is passed in a special session, most, if not all, recodifications, including external cross-references, must be finished for sponsor approval by November interim, even if the recodification is not a committee bill. Recodifications that will be completed after the November interim are discouraged and must be approved by the General Counsel.

Stages of a Recodification

1. Planning a Recodification

- **Recommending a Recodification**
 - If a legislator’s request requires a substantial reworking of an area of the law that will require a recodification, you should explain to the legislator that a recodification is necessary.
 - *You may need to advise the legislator that a significant recodification can take months to prepare and draft.*
 - If there is an area of the law that needs recodification regardless of a bill file, you may want to discuss the issue with your group leader before approaching any legislator to sponsor such a recodification.
- **Determine the Scope of the Recodification**
 - **Evaluate whether the recodification will be technical or substantive in nature.**
 - Technical recodifications simply reorganize sections, parts, chapters, or titles.
 - Substantive recodifications amend or rewrite the substance of an area of the law and reorganize the sections, parts, chapters, or titles.



- **Be realistic about the scope and the amount of work it might take to recodify an area of the law.**
 - It might not be possible to recodify an area of the law in one bill or in one session. The size of a recodification can impact the outline and timeline of a recodification, so you will want to plan ahead on the amount of time and number of bills it will take to recodify an area. You may also want to consider breaking the recodification up into smaller stages over several sessions.
 - *Our bill system can only handle about 400-page bills. If the area you are recodifying is quite large, you will likely want to break the recodification up into separate bills, including a separate bill to address cross-references.*
 - Recodification can require a significant amount of time and drafting from a drafting attorney. You will want to consider how a recodification will impact your workload and discuss the issue with your group leader. You should also consider all areas of the code that will be affected by the recodification and conflicts the recodification will create with other bills that session.
- **Structuring a New Area of Law**
 - **Educate yourself about the area that you will be recodifying.**
 - You will need to become an expert (to the extent possible) on the area of the law that you are recodifying.
 - *Ask the sponsor if you could talk to individuals or agencies that work in that area of the law.*
 - Think about whether an area of the law should be reorganized around subjects or a process.
 - *You may want to consider looking at what other states have done.*
 - Identify any constitutional or policy issues that might need to be addressed in the recodification.
 - *If there are foreseeable issues in the recodification, you will want to get clear instructions from the sponsor on how they want to proceed on those issues.*
 - **Create an outline of the area that you think needs recodification.**
 - Ask Bill and Data Management for a list of the sections for a title, chapter, or part that will be included in the recodification.
 - Create a spreadsheet that shows the new structure and where every section will be moved in the recodification.
 - *If a section is being divided up into multiple sections, you will want to document where all the subsections were moved.*
 - Ask the sponsor if stakeholders in that area of the law could review your outline. If not, you should at least have your analyst or another drafting attorney review the outline of the recodification.
 - **Definitions.**
 - Consider whether a new title, chapter, or part should have a definitions section. You may want to consider reserving a section in the title or chapter for a future definitions section.



- A section can be reserved by enacting a section with underlined language stating “Reserved.” This can also be used to reserve a chapter or part (e.g. Utah Code Section 4-32a-102).
 - Definitions in a part, chapter, or title might need to be modified or moved as sections are moved to other parts, chapters, or titles.

2. Drafting a Recodification

- Know the differences between amending, enacting, renumbering and amending, repealing and reenacting, and repealing sections.
 - **Amending:** We amend sections when all we are doing is deleting language and adding new language in an existing section.
 - Example:

78A-6-201. Judges of juvenile court -- Appointments -- Terms.

(1) ~~(a) [Judges of the juvenile court]~~ A judge of the juvenile court shall be appointed

initially to serve until the first general election held more than three years after ~~[the effective date of the appointment. Thereafter,]~~ the day on which the appointment is effective.

~~(b) After the initial term described in Subsection (1)(a),~~ the term of office of a ~~judge of a juvenile court]~~ juvenile court judge is six years and commences on the first Monday in January next following the date of election.

(2) A juvenile court judge whose term expires may serve, upon request of the Judicial Council, until a successor is appointed and qualified.

- **Enacting:** We enact sections when we are creating a new section with all new language.
 - Example:

78A-6-101.5. Definitions.

The terms defined in Section 80-1-102 apply to this chapter.

- **Renumbering and Amending:** We renumber a section when we delete the old section number and add a new section number.

- Renumbering can only be used on a one-for-one basis. This means that we cannot extract the contents of two or more sections and put them into one, split one section into two or more sections, or renumber a section to be the same number as an existing section.
- Example:

~~[78A-6-1003].~~ **78A-6-452. Costs and expenses of trial.**

~~[The fees and expenses, the cost of publication of summons, and the expense of a trial of an adult, when approved by the court, are paid by the state, except prosecution costs and public defender costs are paid by the county where the hearing or trial is held.]~~

~~(1) Except as provided in Subsection (2), the state shall pay, when approved by the court, the cost of publication of a summons, the expense of a trial, and any other fee or expense of a trial of an adult under this part.~~

~~(2) The county where the hearing or trial is held shall pay the prosecution costs and public defender costs.~~

- **Repealing and Reenacting:** We repeal and reenact when we create a new section using an already existing section number.
 - We should only repeal and reenact when we are essentially rewriting the old section.
 - *If the new section would be substantially different than the current section, you should repeal the current section and enact a new section.*



- Example:
 - **78A-6-104, Concurrent jurisdiction of the juvenile court -- Transfer of a protective order.**
 - (1)(a) The juvenile court has jurisdiction, concurrent with the district court:
 - (i) to establish paternity, or to order testing for purposes of establishing paternity, for a child in accordance with Title 78B, Chapter 15, Utah Uniform Parentage Act, when a proceeding is initiated under Title 80, Chapter 3, Abuse, Neglect, and Dependency Proceedings, or Chapter 4, Termination and Restoration of Parental Rights, that involves the child:
- **Repealing:** We repeal when we list a section at the end of the bill as being repealed.
 - Example:
 - Section 219. **Repealer.**
 - This bill repeals:
 - Section **62A-4a-203.5**, **Mandatory petition for termination of parental rights.**
 - Section **62A-7-101**, **Definitions.**
 - Section **62A-7-503**, **Administrative officer of Youth Parole Authority.**
 - Section **62A-7-505**, **Conditions of parole.**
 - As you draft the recodification, you will want to keep a list of the sections that are being renumbered and amended, repealed and reenacted, repealed, and, if applicable, where those provisions may move to. The creation or update of the long title of the bill will not input these sections in the “Utah Code Sections Affected” section of the long title of the recodification.
- **Create a document that tracks the substantive changes in the recodification.**
 - This will make it easier to draft the highlighted provisions section.
- **Clean-up each section of the bill as you go along.**
 - Recodifications allow us to reach sections that are rarely amended, so many sections of the Utah Code are not up-to-date with the Drafting Deskbook. If possible, you may want to do some minor cleanup throughout those sections.
 - Remember to update terminology when the recodification is changing terms or phrases.
 - Consider revisor instructions in the recodification bill to address other bills that may enact language with old terminology that would need to be revised to reflect recodification changes.
- **Prepare for cross-references.**
 - You will want to have a spreadsheet that shows where everything is being moved and the creation or repeal of sections.
 - *This will help you track cross-references.*
 - Bill and Data Management can pull all of the sections that reference the recodification sections into a document for you.
 - Cross-references are available in the Hermes report if the doc techs have processed the draft.
 - Legal Research can assist in identifying the cross-references that need to be changed as a result of the recodification.



- **Understand the Effects of a Recodification.**

- **Rulemaking Authority**

- If a recodification is transferring agency power, you will need to consider the impact that the transfer will have on administrative rulemaking. It is possible that the administrative rulemaking authority will also need to be transferred.
 - Examples of how a legislative drafter can provide for the disposition of administrative rules or administrative rulemaking authority include:
 - extending rules for a definite time period to allow for a transition and amending of the rules;
 - if the functions will change extensively, providing that the existing rules expire after a time period to allow the agency time to write new rules and put the new rules into place; or
 - providing that the rules are to be transferred, i.e., renumbered and continued in effect.
 - You should consider whether a recodification will impact court rules of procedure and evidence. Please discuss any potential impact on court rules with the Judiciary Team.

- **Transition or Savings Clause**

- A transition or savings clause may be necessary to address various issues raised when enacting or modifying a Utah Code provision.
 - The legislator drafter may need to a transition provision, savings clause, or both, explaining how the transition from the existing law to the new law will take place and the effect of the recodification on existing circumstances or pending issues.
 - This includes:
 - clarifying the application of a new provision to a specific class of event or person (e.g., this bill applies to a cause of action filed on or after [specific date]);
 - phasing in the implementation of the new provision (e.g., a license issued before [specific date] is valid until it expires, is subject to new operational rules, and is to be renewed under the new licensing scheme); or
 - directing an implementing agency to take certain acts (e.g., if rulemaking authority transferred to a new agency, the agency is to use the existing administrative rules until new rules are made).

3. Coordinating a Recodification

- **Coordinating Multiple Recodification Bills**

- For a recodification with multiple bills, you will want to put a coordination clause in each bill that states that all bills have to pass for any one of them to pass.
 - If you are drafting a large recodification that requires multiple bills, to avoid a large number of conflicts, you may want to consider working with the legislator to pass the bills either in a special session or at the beginning of the general session before most bills are made public.
 - *This type of coordination requires planning and the involvement of Legislative Management, Legislative Leadership, Bill and Data Management, and the Legal Research Team.*
 - *Bills that are drafted in the “ghost database” should have immediate effective dates and pass the first week of session.*



- **Coordinating With Other Bills**
 - Recodifications will often create conflicts between bills. You will want to plan ahead of time on how you will want to address those conflicts.
 - *If it is not feasible to pass a large recodification with multiple bills in a special session or early in the general session, you should reach out to the entire office and give them notice that a recodification is taking place.*
 - Coordination clauses can be used to address conflicts between bills that cannot be resolved through a substitute or amendment. You will likely need coordination clauses if it is a substantive recodification.
 - Revisor instructions can be used for conflicts or changes that are technical in nature (e.g., cross-references, terms, or effective dates in statute).

Post-Recodification

➤ Corrections

- Mistakes in recodifications are very likely given the size and complexity of a recodification. If there are mistakes that cannot be addressed in the revisor's bill in the following session, you should ask the sponsor if they would run a cleanup bill to fix any significant mistakes.
 - *Keep a list of corrections as you enroll the recodification and prepare sections from the recodification during the composite process.*
- When Bill and Data Management has prepared the database with the recodified sections, you will want to review the database to ensure that the recodification looks correct.

➤ Revisor Instruction

- If you use a revisor instruction in a recodification bill that is broad in nature (e.g., changes terms across other bills), you will want to make sure other drafting attorneys are aware of this change in the composite process.

➤ Legislative History – Recodification Table

- Before a recodification goes into effect, you will want to create a table (or “crosswalk”) that compares the old sections to the new sections. This table should explain what happened to every section or subsection in the recodification. If you have kept an up-to-date table that tracks this information, this should be relatively easy for you to create.
 - *Regardless of the size of a recodification, you should create this table.*
- Once you have created this document, you will want to ask IT to add the recodification to the recodification tables on the [recodification webpage](#) of the Legislature's website.
 - You will want to have IT post the comparison document along with any other helpful information about the recodification that can be disclosed to the public.
 - Example:



Recodification Tables

Juvenile Recodification (HB 285 and HB 286) – Effective 1 September 2021

[Outline of HB 285](#)

[Comparison of Sections Old to New](#)

[See General Session information for HB 285, Juvenile Recodification](#)

[See General Session information for HB 286, Juvenile Code Recodification Cross References](#)