

Selected Highlights of the 2003 General Session

prepared by the Office of Legislative Research and General Counsel

Wednesday, March 5, 2003

Agriculture

S.B. 142 ***Agricultural Cooperatives Amendments*** (Sen. L. Blackham)

This act modifies the Agricultural Cooperative Associations Act to provide for one-member associations and allows for proportionate voting in cooperative associations based on patronage. The act allows for dividends exceeding 8 percent per annum on preferred, nonvoting stock. The act provides for the judicial dissolution of cooperative associations in certain circumstances.

Appropriations

H.B. 1 ***Appropriations Act*** (Rep. R. Bigelow)

This act funds appropriations and reductions for the operation of state government for the fiscal year beginning July 1, 2003 and ending June 30, 2004. The act provides budget increases and decreases for the use and support of certain state departments and agencies of state government and for other purposes as provided in this act.

H.B. 3 ***Minimum School Program Act Amendments*** (Rep. G. Snow)

This act modifies the State System of Public Education Code by providing funding for the Minimum School Program and school building aid programs. The act modifies the funding of charter schools by eliminating any direct funding from school districts and replacing that revenue with state monies. The act provides that up to \$12 million of the earnings from the investment of the Permanent State School Fund be distributed to schools for the School LAND Trust Program and that up to \$10 million of earnings be distributed to teachers for classroom supplies. The act modifies the formula for funding special education. The act establishes the value of the weighted pupil unit at \$2,150.

S.B. 1 ***Supplemental Appropriations Act*** (Sen. L. Blackham)

This act funds appropriations and reductions for the operation of state government for the fiscal year beginning July 1, 2002 and ending June 30, 2003. The act provides budget increases and decreases for the use and support of certain state departments and agencies of state government and for other purposes as provided in this act.

S.B. 2 ***General Obligation Bond and Capital Facilities Authorizations*** (Sen. B. Evans)

This act modifies the Bonding Code by authorizing the issuance and sale of general obligation bonds by the State Bonding Commission for capital facilities and for certain highways and related facilities. The act specifies the use of the bond proceeds and the manner of issuance. The act approves the issuance of certain obligations by the State Building Ownership Authority and authorizes other capital facility expenditures.

S.B. 3 ***Supplemental Appropriations Act II*** (Sen. L. Blackham)

This act funds appropriations and reductions for the support of state government for the fiscal years beginning July 1, 2003 and ending June 30, 2004 and beginning July 1, 2002 and ending June 30, 2003. The act provides budget increases and decreases for the use and support of certain state departments and agencies of state government. The act provides appropriate funds for the bills with fiscal impact passed in the 2003

General Session and for other purposes as provided in this act. The act provides intent language governing expenditures and approves fees.

Business and Labor

H.B. 19 *Employment Security Act Modifications* (Rep. M. Newbold)

This act amends the Employment Security Act by providing for additional unemployment benefits for individuals who have exhausted their regular benefits. The act provides specific requirements to receive the additional benefits and a limit on the amount of benefits an individual can receive.

H.B. 162 *Amendments Related to Financial Institutions* (Rep. J. Alexander)

This act modifies the Financial Institutions title to address provisions related to credit unions and mutual associations and to make technical changes. The act addresses nonexempt credit unions establishing branches. The act addresses voting requirements for mutual associations. The act modifies definitions. The act addresses loan limitations. The act addresses credit union service organizations. The act addresses mergers involving credit unions. The act addresses operations of out-of-state credit unions. The act addresses provisions related to fields of membership and grandfathering. This act provides for credit unions becoming nonexempt credit unions. The act provides for a competitive equity assessment and penalties for failure to pay the competitive equity assessment. The act modifies provisions related to state corporate franchise and income taxes to address the taxation of nonexempt credit unions. The act establishes a two-year legislative task force to study issues related to credit unions and other financial institutions. The act establishes task force membership, duties, and salaries and designates staff for the task force. The act requires the task force to prepare a report. The act makes a one-time appropriation of \$44,500 from the General Fund for fiscal year 2002-2003 to pay for task force expenses. The act makes a one-time appropriation of \$44,500 from the General Fund for fiscal year 2003-04 to pay for task force expenses. The act also provides intent language.

H.B. 189 *Lending Law Amendments* (Rep. W. Harper)

This act modifies the Check Cashing Registration Act to enact provisions governing the extension of a deferred deposit loan through electronic means, and to require immediate payment to a person receiving a deferred deposit loan through electronic means. The act modifies the Financial Institutions Code to enact the Title Lending Registration Act, imposing registration requirements, operational and disclosure requirements, and enforcement provisions for title loans.

H.B. 277 *Residential Mortgage Practices Amendments* (Rep. J. Philpot)

This act modifies the Utah Residential Mortgage Practices Act to modify the definition of the business of residential mortgage loans, to require licensing, prelicensing examinations, and continuing education of persons engaging in the business of residential mortgage loans, and to modify other licensing requirements. The act modifies the membership of the Residential Mortgage Regulatory Commission. The act prohibits persons from acting in certain multiple capacities with respect to a residential mortgage loan.

S.B. 66 *Alcoholic Beverage Enforcement and Treatment* (Sen. M. Waddoups)

This act modifies the Alcoholic Beverage Title and the Revenue and Taxation Title to increase the beer tax rate and to create the Alcoholic Beverage Enforcement and Treatment Restricted Account.

S.B. 153 *Alcoholic Beverage Amendments (Sen. J. Valentine)*

This act modifies the Alcoholic Beverage Title including technical changes. The act modifies definitions. The act modifies provisions related to the administration of the title by the Alcoholic Beverage Control Commission and the Department of Alcoholic Beverage Control. The act modifies provisions related to state stores. The act modifies provisions related to package agencies. The act modifies provisions related to restaurant liquor licenses and airport lounge liquor licenses. The act enacts provisions providing for limited restaurant licenses. The act enacts provisions providing for on-premise banquet licenses. The act modifies provisions related to private club licenses including the creation of classes of private club licenses. The act modifies provisions related to special use permits. The act amends provisions related to single event permits. The act modifies provisions related to manufacturing licenses, local industry representative licenses, and warehousing licenses. The act modifies provisions related to beer retail and wholesale licenses and enacts provisions providing for temporary special event beer permits. The act modifies provisions related to criminal offenses including restrictions on sales, purchase, possession, and consumption of alcoholic beverages or products; restrictions on operations; restrictions on advertising; restrictions on transportation and distribution of alcoholic beverages or products; and restrictions on trade practices. The act repeals provisions in the Sunset Act related to wine mark-ups. The act enacts the Nuisance Licensees Act. The act appropriates for fiscal year 2002-03 only, \$325,900 from the Liquor Control Fund to the Department of Alcoholic Beverage Control and \$62,000 from the General Fund to the Driver License Division of the Department of Public Safety. Subject to future budget constraints, as an ongoing appropriation, this act appropriates for fiscal year 2003-04, \$1,396,900 from the Liquor Control Fund to the Department of Alcoholic Beverage Control and \$143,000 from the General Fund to the Liquor Law Enforcement Unit of the Department of Public Safety.

S.B. 194 *Commerce and Trade - Telephone and Facsimile Solicitation Act (Sen. D. Thomas)*

This act modifies the Telephone and Facsimile Solicitation Act to provide definitions and modify some of the guidelines and enforcement mechanisms for telephone and facsimile solicitations. The act enacts provisions providing guidelines for the maintenance of a no-call database by the Division of Consumer Protection.

Education

S.B. 32 *Driver Education Courses (Sen. C. Walker)*

This act modifies the State System of Public Education by requiring school districts to fund driver education programs solely through the Automobile Driver Education Tax Account and student fees, excluding the full-time equivalent cost of a teacher when the program is taught during regular school hours. The act also requires school districts to establish student fees that are reasonably associated with the costs of driver education programs. The act allows school districts to be reimbursed by the Automobile Driver Education Account for the costs of fees waived for the driver education program. The act allows a school district to provide the classroom portion of driver education through home study or through the electronic high school and allows the schools to provide material for parent involvement in driver education. The act allows a school district to offer the classroom portion of driver education and the behind-the-wheel portion to be offered by private providers. The act requires the State Board of Education to establish minimum standards for school-related driver education programs.

S.B. 154 **Public Education Amendments** (Sen. T. Hatch)

This act modifies the State System of Public Education Code and the Election Code relating to the governance and funding of the public education system, the core academic skills, assessment and accountability, and school choice. The act modifies the membership of and the qualifications used by the nominating committee to select candidates for membership on the State Board of Education. The act expands local school board membership for certain local school boards. The act expands the state superintendent of public instruction's annual report. The act requires the core curriculum to increase in depth and complexity from year to year and focus on consistent and continual progress in the core academic areas of English and mathematics. The act modifies the membership of the education evaluation program district joint committees. The act provides an emphasis on competency-based education and progress-based assessments as a characteristic of the public education system. The act allows local boards of education to hire a superintendent and other administrators with outstanding professional qualifications who do not hold an administrative/supervisory license. The act prohibits a local school board from entering into a collective bargaining agreement that prohibits or limits individual contracts of employment. The act allows teacher licenses to be awarded based on the demonstrated competence of the teacher. The act makes teachers with district-specific licenses at-will employees who are ineligible for career employee status. The act increases curriculum and graduation requirements for grades 9 through 12 in language arts, mathematics, and science. The act requires the State Board of Education to study, make recommendations, and report to the Education Interim Committee on an enumerated list of strategies to improve public education. The act appropriates \$150,000 for fiscal year 2002-03 only to the Office of Legislative Research and General Counsel to allow the Education Interim Committee to issue a specified request for proposals. The act requires the Public Education Appropriations Subcommittee to study and report on specified funding issues. The act requires the State Board of Regents to study and report on specified issues. The act authorizes additional legislative committee meetings during the 2003 interim and appropriates \$24,500 from the General Fund, for fiscal year 2002-03 only, to cover the additional meeting expenses. The act appropriates \$4,000,000 from the Uniform School Fund, for the fiscal year beginning on July 1, 2003, to the State Board of Education to begin implementing competency-based education processes. The act authorizes a State Education Summit Meeting, requires certain reports for the summit, enumerates its participants, and specifies its purpose.

Health

S.B. 121 **Federal Health Insurance Portability and Accountability Act Compliance Amendments** (Sen. P. Knudson)

This act modifies the Government Records Access and Management Act and the Judicial Code. The act amends provisions relating to the right to access and copy patient medical records. The act amends state laws to bring them into compliance with federal patient privacy laws enacted in the Health Insurance Portability and Accountability Act.

S.B. 138 **Medical Malpractice Amendments** (Sen. L. Blackham)

This act amends the Utah Health Care Malpractice Act and the Health Care Providers Immunity From Liability Act. The act amends provisions related to arbitration agreements between a health care provider and a patient. The act allows a provider

and patient to negotiate an arbitration agreement in nonemergency situations. The act amends provisions related to immunity from liability for certain charity care.

Information Technology

S.B. 151 *Amendments Related to Information Technology (Sen. D. Steele)*

This act modifies the Information Technology Title and the Utah Administrative Services Code to reorganize the information technology structure of the state including addressing the powers and duties of the chief information officer of the Division of Information Technology. The act addresses coordination of information technology between branches. The act reorganizes the Information Technology Commission to the Utah Technology Commission and creates the Utah Technology Industry Council and outlines the responsibilities of each entity.

Judiciary

H.R. 9 *Resolution Initiating Impeachment Proceedings for Judge Ray M. Harding, Jr. (Rep. N. Hendrickson)*

This resolution of the House of Representatives initiates impeachment proceedings against Judge Ray M. Harding, Jr. of Utah's Fourth District for high crimes, misdemeanors, and malfeasance.

S.B. 29 *Legislative Reporting and Access to Certain Information (Sen. M. Dmitrich)*

This act amends provisions in the Judicial Code to allow for audit by the Office of Legislative Auditor General.

S.B. 128 *Protective Order Amendments (Sen. L. Hillyard)*

This act enacts a new chapter in the Judicial Code regarding child protective orders. It provides for the filing of a petition, notice to the parties, appointment of a guardian ad litem, and hearings. Provision is also made for the review or expiration of the order. The act also requires that the order be entered into the statewide domestic violence network.

S.B. 132 *Child Support and Paternity Amendments (Sen. L. Hillyard)*

This act modifies provisions relating to paternity and child support. It provides definitions for "declarant father" and "presumptive father" and allows for a declaration of paternity by a declarant father even if a presumptive father exists, allows for registration of the declaration, and provides for the modification of a divorce decree or child support order after paternity is determined. The act modifies provisions for reimbursement by a child's parents if the child is removed from a home and the Juvenile Court finds that the allegations were insufficient. The act also modifies child support and parent-time provisions by clarifying provisions relating to deviations from the child support guidelines, and allowing for reductions in child support for extended parent-time.

S.B. 223 *Revisions to Parent Time (Sen. L. Hillyard)*

This act modifies provisions concerning parent-time. It provides for the award of joint legal and physical custody according to the best interests of the child and defines joint physical custody.

Law Enforcement and Criminal Justice

S.B. 8 ***Sentencing in Capital Cases Amendments*** (Sen. D. Gladwell)

This act modifies the Criminal Code by providing that persons found by the court to be mentally retarded are not subject to the death penalty. The act defines mental retardation as applicable to death penalty cases. The act specifies procedures for the examination of defendants alleging mental retardation and procedures for the judicial hearing to determine mental retardation. The act is in response to the recent U.S. Supreme Court case *Atkins v. Virginia* which prohibits execution of the mentally retarded. The act also provides that defendants with specified subaverage functioning are not subject to the death penalty if the defendant's confession is not substantially corroborated.

Revenue and Taxation

H.B. 286 ***Waste Tax and Fee Amendments*** (Rep. D. Ure)

This act modifies the Environmental Quality Code and the Revenue and Taxation Code to increase fees on radioactive waste and hazardous waste, modify taxes paid by radioactive waste facilities, and impose taxes on hazardous waste facilities and nonhazardous solid waste facilities. The act increases a regulatory fee on radioactive waste received at a radioactive waste facility and increases a regulatory fee on hazardous waste received at a hazardous waste facility for treatment and disposal. The act eliminates a tax imposed on radioactive waste and imposes a tax on radioactive waste facilities. The act imposes a tax on hazardous waste facilities and nonhazardous solid waste facilities based on gross receipts derived from the treatment or disposal of hazardous waste and nonhazardous solid waste. The act increases the fee on the disposal of PCBs, nonhazardous solid waste, and municipal waste. The act amends the definition of gross receipts as it relates to radioactive waste.

H.B. 294 ***County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities Amendments*** (Rep. S. Allen)

This act modifies provisions relating to Revenue and Taxation. The act modifies the formula for distributing certain sales and use tax revenues to cultural, botanical, and zoological organizations. The act expands the potential recipients of the sales and use tax revenues in certain counties and clarifies what administrative units are eligible for receipt of revenues. The act modifies the composition of advisory boards. The act authorizes county legislative bodies to retain a percentage of the applicable sales and use tax proceeds to cover administrative costs. The act provides that county ordinances may be revised under certain circumstances after submitting an opinion question to voters.

S.B. 147 ***Streamlined Sales Tax Project Amendments*** (Sen. L. Hillyard)

This act modifies the Municipal Energy Sales and Use Tax Act and the Sales and Use Tax Act. The act provides and amends definitions. The act authorizes the State Tax Commission to enter into an agreement with one or more states relating to sales and use taxes. The act provides the purposes of the agreement and prescribes the scope of the agreement. The act grants the State Tax Commission rulemaking authority. The act provides that the agreement may require each state that is a member of the agreement to abide by certain requirements and establishes those requirements. The act modifies state and local sales and use tax rates for taxes collected by certain sellers. The act provides and modifies effective dates for state and local sales and use taxes. The act

modifies requirements for enacting, repealing, or changing the tax rate of a local sales and use tax. The act repeals obsolete language. The act provides that revenues in the Remote Sales Restricted Account shall be deposited into the General Fund on a certain date. The act provides, modifies, and repeals sales and use tax exemptions. The act provides income tax credits for certain hand tools used in a farming operation. The act modifies requirements to report certain sales and use tax information to the State Tax Commission. The act modifies requirements pertaining to exemption certificates. The act amends provisions relating to the voluntary collection of sales and use taxes by a seller. The act addresses for certain sellers registered under the agreement the due dates for paying certain sales and use tax obligations and the requirements for calculating certain sales and use tax obligations. The act permits a seller or a seller's certified service provider to deduct or file a refund claim for bad debt under certain circumstances. The act addresses the recovery of bad debt. The act authorizes the commission to issue a direct payment permit to certain sellers and provides procedures and requirements for the State Tax Commission to issue or revoke a direct payment permit and for sellers to use direct payment permits. The act addresses the sales and use tax treatment of certain goods or services that will be concurrently available for use in more than one location. The act addresses the collection, remittance, and payment of sales and use taxes on direct mail. The act modifies provisions relating to filing sales and use tax returns and retaining a portion of sales and use taxes collected. The act provides procedures and requirements for a seller to obtain a refund or credit for taxes erroneously charged to a purchaser. The act requires the State Tax Commission to grant a seller amnesty under certain circumstances and provides procedures and requirements for granting amnesty. The act modifies the procedures and requirements for determining the location of transactions for certain sales and use taxes imposed by a county, city, or town. The act provides that a county, city, or town may impose a sales or use tax on transactions located within the county, city, or town. The act limits a seller's sales and use tax liability if the seller relies on a database created by the State Tax Commission. The act addresses the collection and distribution of local sales and use taxes. The act requires the Revenue and Taxation Interim Committee to conduct a study and prescribes the scope of that study.

S.B. 213 ***Amendments to Sales and Use Tax*** (Sen. E. Mayne)

This act modifies the Sales and Use Tax Act to modify the transactions that are subject to sales and use tax. The act also provides definitions.

State and Local Affairs

H.B. 72 ***Allocation of Tobacco Fund Money to Children's Health Insurance Program***
(Rep. D. Hogue)

This act modifies the Tobacco Settlement Restricted Account. The act increases the appropriation from the Tobacco Settlement Restricted Account to the Children's Health Insurance Program by \$1.5 million. The act restores dental benefits to children. The act modifies the distribution of tobacco settlement money received by the state. The act deposits 100% of the tobacco settlement money into the tobacco settlement restricted account in fiscal year 2003-04 only. The act appropriates \$5.5 million from the permanent state trust fund created in Utah Constitution Article XXII, Section 4, to the General Fund.

H.B. 103 **Voter Registration Amendments** (Rep. L. Pace)

This act modifies the Election Code by changing requirements for voter registration forms and processes. The act requires the lieutenant governor to oversee responsibilities established by recent federal election law, and establishes reports concerning absentee ballots for military personnel and overseas citizen voters.

H.B. 244 **Municipal Government Amendments** (Rep. W. Harper)

This act modifies city classification provisions and adds new classifications. The act modifies the population size of cities to which certain meeting requirements apply. The act modifies the population size of cities subject to certain animal shelter provisions. The act modifies the population size of cities to which a maximum charge for newspaper official notices applies. The act also makes conforming and technical changes.

H.C.R. 1 **Resolution Urging Reworking of Census Data Collection Procedures** (Rep. M. Stephens)

This Concurrent Resolution of the Legislature and the Governor strongly urges the United States Census Bureau to review and modify the census data collection procedures for the 2010 Census to account for United States Citizens who are living out of the country on a temporary basis.

H.C.R. 10 **Resolution Approving Deep Creek - Tender of Judgment** (Rep. G. Curtis)

A concurrent resolution of the Legislature and the Governor approving the tender of \$850,000, plus prejudgment interest and reasonable attorneys' fees in amounts determined appropriate by the District Court, all in satisfaction of the District Court judgment for specific performance.

S.B. 28 **Initiative Amendments** (Sen. J. Hickman)

This act modifies the Election Code provisions relating to statewide initiatives. The act modifies signature requirements, modifies certain disclosure requirements, and modifies the time period during which sponsors may gather signatures. The act establishes a moratorium before an initiative that failed may be recirculated. The act requires that the petition sponsors hold public hearings on the petition in geographically diverse areas of Utah and establishes notice and procedural requirements for those public hearings. The act modifies political issues committee and corporation financial disclosure requirements. The act makes it a crime for persons to pay someone to sign or remove their signature from an initiative petition and makes it a crime for persons to accept payment for signing or removing their name from an initiative petition. The act includes a severability clause.

S.B. 68 **Voter Identification Requirements** (Sen. D. Eastman)

This act modifies the Election Code by changing requirements for voter identification in voting procedures, disposition of absentee ballots, and other election processes.

S.B. 233 **Budgetary Procedures Amendments** (Sen. L. Blackham)

This act modifies the Budgetary Procedures Act by authorizing the Budget Reserve Account to be expended to fund certain state settlement agreements.

S.B. 240 **Term Limit Repeal** (Sen. C. Bramble)

This act repeals Utah's term limits statutes.

Task Forces

H.B. 162 ***Amendments Related to Financial Institutions*** (Rep. J. Alexander)

This act establishes the Financial Institutions Task Force, a two-year legislative task force to study issues related to credit unions and other financial institutions. The act establishes task force membership, duties, and salaries and designates staff for the task force. The act requires the task force to prepare a report. The act makes a one-time appropriation of \$44,500 from the General Fund for fiscal year 2002-03 to pay for task force expenses. The act makes a one-time appropriation of \$44,500 from the General Fund for fiscal year 2003-04 to pay for task force expenses.

H.B. 257 ***Public Education Legislative Task Force*** (Rep. K. Holdaway)

This act creates the Public Education Legislative Task Force. The act provides for membership of the task force and compensation of members. The act outlines the responsibilities and duties of the task force. The act provides for a final report to the Education Interim Committee. The act appropriates \$44,500 from the General Fund for fiscal year 2002-03 only, to fund the task force. The act provides for staffing of the task force.

H.B. 310 ***Transportation Planning Task Force*** (Rep. J. Dougall)

This act establishes a legislative task force to study transportation needs and funding for the next 10 and 20-year time frames. The act establishes task force membership, duties, and salaries and designates staff for the task force. The act requires the task force to prepare a report. The act makes a one-time appropriation of \$44,500 from the General Fund for fiscal year 2003-04 to pay for task force expenses.

S.B. 37 ***Task Force Study of Impact of Gravel Pits*** (Sen. P. Knudson)

This act creates a task force to study the operations of gravel pits in the state and their impact on the surrounding environment and infrastructure. The act establishes the membership of the task force and provides for compensation of legislative members. The act provides for the duties of the task force. The act makes a one-time appropriation of \$29,500 from the General Fund for fiscal year 2002-03 to pay for task force expenses.

S.B. 133 ***Reauthorization of the Energy Policy Task Force*** (Sen. L. Blackham)

This act modifies the Public Utilities Title to reauthorize the Energy Policy Task Force and make technical changes.

S.B. 172 ***Hazardous Waste Regulation and Tax Policy Task Force and Moratorium on Acceptance of Class B and C Radioactive Waste*** (Sen. C. Bramble)

This act creates a task force to study radioactive waste, hazardous waste, and commercial solid waste issues in the state, including state policy and an evaluation of fees and taxes imposed on these wastes. The task force is composed of 16 members of the Legislature. The act also places a moratorium on any acceptance of class B or C radioactive waste through February 15, 2005.