

SB0233S01 compared with SB0233

~~deleted text~~ shows text that was in SB0233 but was deleted in SB0233S01.

inserted text shows text that was not in SB0233 but was inserted into SB0233S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will not be completely accurate. Therefore, you need to read the actual bill. This automatically generated document could experience abnormalities caused by: limitations of the compare program; bad input data; the timing of the compare; and other potential causes.

Senator Lyle W. Hillyard proposes the following substitute bill:

NAME CHANGE FOR APPROPRIATIONS SUBCOMMITTEES

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies sections in the Utah Code to reflect modified appropriation subcommittee names.

Highlighted Provisions:

This bill:

- ▶ modifies references in the Utah Code to correctly refer to modified appropriation subcommittee names.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

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AMENDS:

9-4-802, as last amended by Laws of Utah 2011, Chapter 366

26-1-4, as last amended by Laws of Utah 2009, Chapter 136

26-1-38, as last amended by Laws of Utah 2010, Chapter 323

26-18-2.3, as last amended by Laws of Utah 2011, Chapter 151

26-18-2.4, as last amended by Laws of Utah 2009, Chapter 324

26-18-3, as last amended by Laws of Utah 2011, Chapters 151, 297, and 366

26-18-12, as enacted by Laws of Utah 2008, Chapter 60

26-18a-3, as last amended by Laws of Utah 2010, Chapter 278

26-18b-101, as enacted by Laws of Utah 2002, Chapter 55

26-47-102, as renumbered and amended by Laws of Utah 2005, Chapter 273

26-47-103, as last amended by Laws of Utah 2011, Chapter 297

26-50-202, as last amended by Laws of Utah 2010, Chapter 286

26-52-202, as last amended by Laws of Utah 2011, Chapter 340

31A-29-113.5, as enacted by Laws of Utah 2005, Chapter 273

35A-3-302, as last amended by Laws of Utah 2009, Chapter 55

36-23-106, as last amended by Laws of Utah 2008, Chapters 218 and 382

51-9-201, as last amended by Laws of Utah 2010, Chapter 404

51-9-203, as renumbered and amended by Laws of Utah 2008, Chapter 382

53B-20-104, as last amended by Laws of Utah 2000, Chapter 231

59-21-2, as last amended by Laws of Utah 2011, Chapter 342

62A-3-110, as enacted by Laws of Utah 2002, Chapter 268

62A-4a-117, as repealed and reenacted by Laws of Utah 2010, Chapter 322

62A-4a-207, as last amended by Laws of Utah 2011, Chapter 316

62A-7-203, as last amended by Laws of Utah 2005, Chapter 13

62A-15-103, as last amended by Laws of Utah 2011, Chapter 303

63A-5-104, as last amended by Laws of Utah 2011, Chapters 219 and 409

63A-5-701, as renumbered and amended by Laws of Utah 2008, Chapter 382

63B-3-301, as last amended by Laws of Utah 2011, Chapter 270

63J-1-201, as last amended by Laws of Utah 2011, Chapters 334 and 378

63J-1-201.7, as enacted by Laws of Utah 2011, Chapter 378

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63M-1-1206, as last amended by Laws of Utah 2010, Chapter 323

63M-1-1404, as renumbered and amended by Laws of Utah 2008, Chapter 382

63M-1-1901, as last amended by Laws of Utah 2010, Chapter 323

63M-2-302, as last amended by Laws of Utah 2010, Chapter 323

73-30-202, as enacted by Laws of Utah 2010, Chapter 141

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

Section 1. Section 9-4-802 is amended to read:

9-4-802. Purposes of Homeless Coordinating Committee -- Uses of Pamela Atkinson Homeless Account.

(1) (a) The Homeless Coordinating Committee shall work to ensure that services provided to the homeless by state agencies, local governments, and private organizations are provided in a cost-effective manner.

(b) Programs funded by the committee shall emphasize emergency housing and self-sufficiency, including placement in meaningful employment or occupational training activities and, where needed, special services to meet the unique needs of the homeless who:

- (i) have families with children;
- (ii) have a disability or a mental illness; or
- (iii) suffer from other serious challenges to employment and self-sufficiency.

(c) The committee may also fund treatment programs to ameliorate the effects of substance abuse or a disability.

(2) The committee members designated in Subsection 9-4-801(2) shall:

(a) award contracts funded by the Pamela Atkinson Homeless Account with the advice and input of those designated in Subsection 9-4-801(3);

(b) consider need, diversity of geographic location, coordination with or enhancement of existing services, and the extensive use of volunteers; and

(c) give priority for funding to programs that serve the homeless who have a mental illness and who are in families with children.

(3) (a) In any fiscal year, no more than 80% of the funds in the Pamela Atkinson Homeless Account may be allocated to organizations that provide services only in Salt Lake, Davis, Weber, and Utah Counties.

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(b) The committee may:

(i) expend up to 3% of its annual appropriation for administrative costs associated with the allocation of funds from the Pamela Atkinson Homeless Account, and up to 2% of its annual appropriation for marketing the account and soliciting donations to the account; and

(ii) pay for the initial costs of the State Tax Commission in implementing Section 59-10-1306 from the account.

(4) (a) The committee may not expend, except as provided in Subsection (4)(b), an amount equal to the greater of \$50,000 or 20% of the amount donated to the Pamela Atkinson Homeless Account during fiscal year 1988-89.

(b) If there are decreases in contributions to the account, the committee may expend funds held in the account to provide program stability, but the committee shall reimburse the amounts of those expenditures to the account.

(5) The committee shall make an annual report to the Business, Economic Development ~~and Human Resources~~, and Labor Appropriations Subcommittee regarding the programs and services funded by contributions to the Pamela Atkinson Homeless Account.

(6) The money in the Pamela Atkinson Homeless Account shall be invested by the state treasurer according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from the restricted account shall be deposited in the restricted account.

Section 2. Section 26-1-4 is amended to read:

26-1-4. Department of Health created -- Policymaking responsibilities -- Consultation with local health departments -- Committee to evaluate health policies and to review federal grants -- Committee responsibilities.

(1) There is created the Department of Health, which has all of the policymaking functions, regulatory and enforcement powers, rights, duties, and responsibilities of the Division of Health, the Board of Health, the State Health Planning Development Agency, and the Office of Health Care Financing. Unless otherwise specifically provided, when reference is made in any statute of this state to the Board of Health, the Division of Health, the State Health Planning Development Agency, or the Office of Health Care Financing, it refers to the department. The department shall assume all of the policymaking functions, powers, rights, duties, and responsibilities over the division, agency, and office previously vested in the

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Department of Human Services and its executive director.

(2) In establishing public health policy, the department shall consult with the local health departments established under Title 26A, Chapter 1, Local Health Departments.

(3) (a) As used in this Subsection (3):

(i) "Committee" means the committee established under Subsection (3)(b).

(ii) "Exempt application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iii).

(iii) "Expedited application" means an application for a federal grant that meets the criteria established under Subsection (3)(c)(iv).

(iv) "Federal grant" means a grant from the federal government that could provide funds for local health departments to help them fulfill their duties and responsibilities.

(v) "Reviewable application" means an application for a federal grant that is not an exempt application.

(b) The department shall establish a committee consisting of:

(i) the executive director, or the executive director's designee;

(ii) two representatives of the department, appointed by the executive director; and

(iii) three representatives of local health departments, appointed by all local health departments.

(c) The committee shall:

(i) evaluate:

(A) the allocation of public health resources between the department and local health departments; and

(B) policies that affect local health departments;

(ii) consider policy changes proposed by the department or local health departments;

(iii) establish criteria by which an application for a federal grant may be judged to determine whether it should be exempt from the requirements under Subsection (3)(d); and

(iv) establish criteria by which an application for a federal grant may be judged to determine whether committee review under Subsection (3)(d)(i) should be delayed until after the application is submitted because the application is required to be submitted under a timetable that makes committee review before it is submitted impracticable if the submission deadline is to be met.

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(d) (i) The committee shall review the goals and budget for each reviewable application:

(A) before the application is submitted, except for an expedited application; and

(B) for an expedited application, after the application is submitted but before funds from the federal grant for which the application was submitted are disbursed or encumbered.

(ii) Funds from a federal grant pursuant to a reviewable application may not be disbursed or encumbered before the goals and budget for the federal grant are established by:

(A) a two-thirds vote of the committee, following the committee review under Subsection (3)(d)(i); or

(B) if two-thirds of the committee cannot agree on the goals and budget, the chair of the health advisory council, after consultation with the committee in a manner that the committee determines.

(e) An exempt application is exempt from the requirements of Subsection (3)(d).

(f) The committee shall report to the Legislature's ~~[Health and Human]~~ [Social] Services Appropriations Subcommittee and Political Subdivisions Interim Committee by November 30 of each year regarding implementation of this Subsection (3).

(g) The department may use money from a federal grant to pay administrative costs incurred in implementing this Subsection (3).

Section 3. Section 26-1-38 is amended to read:

26-1-38. Local health emergency assistance program.

(1) As used in this section:

(a) "Local health department" has the same meaning as defined in Section 26A-1-102.

(b) "Local health emergency" means an unusual event or series of events causing or resulting in a substantial risk or substantial potential risk to the health of a significant portion of the population within the boundary of a local health department.

(c) "Program" means the local health emergency assistance program that the department is required to establish under this section.

(d) "Program fund" means money that the Legislature appropriates to the department for use in the program and other money otherwise made available for use in the program.

(2) The department shall establish, to the extent of funds appropriated by the Legislature or otherwise made available to the program fund, a local health emergency

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assistance program.

(3) Under the program, the department shall:

(a) provide a method for a local health department to seek reimbursement from the program fund for local health department expenses incurred in responding to a local health emergency;

(b) require matching funds from any local health department seeking reimbursement from the program fund;

(c) establish a method for apportioning money in the program fund to multiple local health departments when the total amount of concurrent requests for reimbursement by multiple local health departments exceeds the balance in the program fund; and

(d) establish by rule other provisions that the department considers necessary or advisable to implement the program.

(4) Each September the department shall:

(a) submit to the Health and Human Services Interim Committee of the Legislature a written report summarizing program activity, including:

(i) a description of the requests for reimbursement from local health departments during the preceding 12 months;

(ii) the amount of each reimbursement made from the program fund to local health departments; and

(iii) the current balance of the program fund; and

(b) submit a copy of the report required under Subsection (4)(a) to the ~~Health and Human~~ Social Services Appropriations Subcommittee.

(5) (a) (i) Subject to Subsection (5)(a)(ii), the department shall use money in the program fund exclusively for purposes of the program.

(ii) The department may use money in the program fund to cover its costs of administering the program.

(b) Money that the Legislature appropriates to the program fund is nonlapsing.

(c) Any interest earned on money in the program fund shall be deposited to the General Fund.

Section 4. Section 26-18-2.3 is amended to read:

26-18-2.3. Division responsibilities -- Emphasis -- Periodic assessment.

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(1) In accordance with the requirements of Title XIX of the Social Security Act and applicable federal regulations, the division is responsible for the effective and impartial administration of this chapter in an efficient, economical manner. The division shall:

(a) establish, on a statewide basis, a program to safeguard against unnecessary or inappropriate use of Medicaid services, excessive payments, and unnecessary or inappropriate hospital admissions or lengths of stay;

(b) deny any provider claim for services that fail to meet criteria established by the division concerning medical necessity or appropriateness; and

(c) place its emphasis on high quality care to recipients in the most economical and cost-effective manner possible, with regard to both publicly and privately provided services.

(2) The division shall implement and utilize cost-containment methods, where possible, which may include:

(a) prepayment and postpayment review systems to determine if utilization is reasonable and necessary;

(b) preadmission certification of nonemergency admissions;

(c) mandatory outpatient, rather than inpatient, surgery in appropriate cases;

(d) second surgical opinions;

(e) procedures for encouraging the use of outpatient services;

(f) consistent with Sections 26-18-2.4 and 58-17b-606, a Medicaid drug program;

(g) coordination of benefits; and

(h) review and exclusion of providers who are not cost effective or who have abused the Medicaid program, in accordance with the procedures and provisions of federal law and regulation.

(3) The director of the division shall periodically assess the cost effectiveness and health implications of the existing Medicaid program, and consider alternative approaches to the provision of covered health and medical services through the Medicaid program, in order to reduce unnecessary or unreasonable utilization.

(4) The department shall ensure Medicaid program integrity by conducting internal audits of the Medicaid program for efficiencies, best practices, fraud, waste, abuse, and cost recovery.

(5) The department shall, by December 31 of each year, report to the ~~Health and~~

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Human Social Services Appropriations Subcommittee regarding:

- (a) measures taken under this section to increase:
 - (i) efficiencies within the program; and
 - (ii) cost avoidance and cost recovery efforts in the program; and
- (b) results of program integrity efforts under Subsection (4).

Section 5. Section 26-18-2.4 is amended to read:

26-18-2.4. Medicaid drug program -- Preferred drug list.

(1) A Medicaid drug program developed by the department under Subsection 26-18-2.3
(2)(f):

(a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and cost-related factors which include medical necessity as determined by a provider in accordance with administrative rules established by the Drug Utilization Review Board;

(b) may include therapeutic categories of drugs that may be exempted from the drug program;

(c) may include placing some drugs, except the drugs described in Subsection (2), on a preferred drug list to the extent determined appropriate by the department;

(d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, shall immediately implement the prior authorization requirements for a non-preferred drug that is in the same therapeutic class as a drug that is:

- (i) on the preferred drug list on the date that this act takes effect; or
- (ii) added to the preferred drug list after this act takes effect; and

(e) except as prohibited by Subsections 58-17b-606(4) and (5), the prior authorization requirements established under Subsections (1)(c) and (d) shall permit a health care provider or the health care provider's agent to obtain a prior authorization override of the preferred drug list through the department's pharmacy prior authorization review process, which shall:

(i) provide either telephone or fax approval or denial of the request within 24 hours of the receipt of a request that is submitted during normal business hours of Monday through Friday from 8 am to 5 pm;

(ii) provide for the dispensing of a limited supply of a requested drug as determined appropriate by the department in an emergency situation, if the request for an override is received outside of the department's normal business hours; and

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(iii) require the health care provider to provide the department with documentation of the medical need for the preferred drug list override in accordance with criteria established by the department in consultation with the Pharmacy and Therapeutics Committee.

(2) (a) For purposes of this Subsection (2), "immunosuppressive drug":

(i) means a drug that is used in immunosuppressive therapy to inhibit or prevent activity of the immune system to aid the body in preventing the rejection of transplanted organs and tissue; and

(ii) does not include drugs used for the treatment of autoimmune disease or diseases that are most likely of autoimmune origin.

(b) A preferred drug list developed under the provisions of this section may not include:

(i) a psychotropic or anti-psychotic drug; or

(ii) an immunosuppressive drug.

(c) The state Medicaid program shall reimburse for a prescription for an immunosuppressive drug as written by the health care provider for a patient who has undergone an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients who have undergone an organ transplant, the prescription for a particular immunosuppressive drug as written by a health care provider meets the criteria of demonstrating to the Department of Health a medical necessity for dispensing the prescribed immunosuppressive drug.

(d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the state Medicaid drug program may not require the use of step therapy for immunosuppressive drugs without the written or oral consent of the health care provider and the patient.

(3) The department shall report to the Health and Human Services Interim Committee and to the ~~[Health and Human]~~ Social Services Appropriations Subcommittee prior to November 1, 2010 regarding the savings to the Medicaid program resulting from the use of the preferred drug list permitted by Subsection (1).

Section 6. Section 26-18-3 is amended to read:

26-18-3. Administration of Medicaid program by department -- Reporting to the Legislature -- Disciplinary measures and sanctions -- Funds collected -- Eligibility standards -- Internal audits -- Studies -- Health opportunity accounts.

(1) The department shall be the single state agency responsible for the administration

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of the Medicaid program in connection with the United States Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

(2) (a) The department shall implement the Medicaid program through administrative rules in conformity with this chapter, Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the requirements of Title XIX, and applicable federal regulations.

(b) The rules adopted under Subsection (2)(a) shall include, in addition to other rules necessary to implement the program:

(i) the standards used by the department for determining eligibility for Medicaid services;

(ii) the services and benefits to be covered by the Medicaid program; and

(iii) reimbursement methodologies for providers under the Medicaid program.

(3) (a) The department shall, in accordance with Subsection (3)(b), report to the ~~Health and Human~~ Social Services Appropriations Subcommittee when the department:

(i) implements a change in the Medicaid State Plan;

(ii) initiates a new Medicaid waiver;

(iii) initiates an amendment to an existing Medicaid waiver;

(iv) applies for an extension of an application for a waiver or an existing Medicaid waiver; or

(v) initiates a rate change that requires public notice under state or federal law.

(b) The report required by Subsection (3)(a) shall:

(i) be submitted to the ~~Health and Human~~ Social Services Appropriations Subcommittee prior to the department implementing the proposed change; and

(ii) include:

(A) a description of the department's current practice or policy that the department is proposing to change;

(B) an explanation of why the department is proposing the change;

(C) the proposed change in services or reimbursement, including a description of the effect of the change;

(D) the effect of an increase or decrease in services or benefits on individuals and families;

(E) the degree to which any proposed cut may result in cost-shifting to more expensive

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services in health or human service programs; and

(F) the fiscal impact of the proposed change, including:

(I) the effect of the proposed change on current or future appropriations from the Legislature to the department;

(II) the effect the proposed change may have on federal matching dollars received by the state Medicaid program;

(III) any cost shifting or cost savings within the department's budget that may result from the proposed change; and

(IV) identification of the funds that will be used for the proposed change, including any transfer of funds within the department's budget.

(4) (a) The Department of Human Services shall report to the Legislative ~~Health and Human~~ Social Services Appropriations Subcommittee no later than December 31, 2010 in accordance with Subsection (4)(b).

(b) The report required by Subsection (4)(a) shall include:

(i) changes made by the division or the department beginning July 1, 2010 that effect the Medicaid program, a waiver under the Medicaid program, or an interpretation of Medicaid services or funding, that relate to care for children and youth in the custody of the Division of Child and Family Services or the Division of Juvenile Justice Services;

(ii) the history and impact of the changes under Subsection (4)(b)(i);

(iii) the Department of Human Service's plans for addressing the impact of the changes under Subsection (4)(b)(i); and

(iv) ways to consolidate administrative functions within the Department of Human Services, the Department of Health, the Division of Child and Family Services, and the Division of Juvenile Justice Services to more efficiently meet the needs of children and youth with mental health and substance disorder treatment needs.

(5) Any rules adopted by the department under Subsection (2) are subject to review and reauthorization by the Legislature in accordance with Section 63G-3-502.

(6) The department may, in its discretion, contract with the Department of Human Services or other qualified agencies for services in connection with the administration of the Medicaid program, including:

(a) the determination of the eligibility of individuals for the program;

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(b) recovery of overpayments; and

(c) consistent with Section 26-20-13, and to the extent permitted by law and quality control services, enforcement of fraud and abuse laws.

(7) The department shall provide, by rule, disciplinary measures and sanctions for Medicaid providers who fail to comply with the rules and procedures of the program, provided that sanctions imposed administratively may not extend beyond:

(a) termination from the program;

(b) recovery of claim reimbursements incorrectly paid; and

(c) those specified in Section 1919 of Title XIX of the federal Social Security Act.

(8) Funds collected as a result of a sanction imposed under Section 1919 of Title XIX of the federal Social Security Act shall be deposited in the General Fund as dedicated credits to be used by the division in accordance with the requirements of Section 1919 of Title XIX of the federal Social Security Act.

(9) (a) In determining whether an applicant or recipient is eligible for a service or benefit under this part or Chapter 40, Utah Children's Health Insurance Act, the department shall, if Subsection (9)(b) is satisfied, exclude from consideration one passenger vehicle designated by the applicant or recipient.

(b) Before Subsection (9)(a) may be applied:

(i) the federal government shall:

(A) determine that Subsection (9)(a) may be implemented within the state's existing public assistance-related waivers as of January 1, 1999;

(B) extend a waiver to the state permitting the implementation of Subsection (9)(a); or

(C) determine that the state's waivers that permit dual eligibility determinations for cash assistance and Medicaid are no longer valid; and

(ii) the department shall determine that Subsection (9)(a) can be implemented within existing funding.

(10) (a) For purposes of this Subsection (10):

(i) "aged, blind, or has a disability" means an aged, blind, or disabled individual, as defined in 42 U.S.C. 1382c(a)(1); and

(ii) "spend down" means an amount of income in excess of the allowable income standard that shall be paid in cash to the department or incurred through the medical services

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not paid by Medicaid.

(b) In determining whether an applicant or recipient who is aged, blind, or has a disability is eligible for a service or benefit under this chapter, the department shall use 100% of the federal poverty level as:

- (i) the allowable income standard for eligibility for services or benefits; and
- (ii) the allowable income standard for eligibility as a result of spend down.

(11) The department shall conduct internal audits of the Medicaid program.

(12) In order to determine the feasibility of contracting for direct Medicaid providers for primary care services, the department shall:

(a) issue a request for information for direct contracting for primary services that shall provide that a provider shall exclusively serve all Medicaid clients:

- (i) in a geographic area;
- (ii) for a defined range of primary care services; and
- (iii) for a predetermined total contracted amount; and

(b) by February 1, 2011, report to the ~~Health and Human~~ Social Services Appropriations Subcommittee on the response to the request for information under Subsection (12)(a).

(13) (a) By December 31, 2010, the department shall:

(i) determine the feasibility of implementing a three year patient-centered medical home demonstration project in an area of the state using existing budget funds; and

(ii) report the department's findings and recommendations under Subsection (13)(a)(i) to the ~~Health and Human~~ Social Services Appropriations Subcommittee.

(b) If the department determines that the medical home demonstration project described in Subsection (13)(a) is feasible, and the ~~Health and Human~~ Social Services Appropriations Subcommittee recommends that the demonstration project be implemented, the department shall:

(i) implement the demonstration project; and

(ii) by December 1, 2012, make recommendations to the ~~Health and Human~~ Social Services Appropriations Subcommittee regarding the:

(A) continuation of the demonstration project;

(B) expansion of the demonstration project to other areas of the state; and

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(C) cost savings incurred by the implementation of the demonstration project.

(14) (a) The department may apply for and, if approved, implement a demonstration program for health opportunity accounts, as provided for in 42 U.S.C. Sec. 1396u-8.

(b) A health opportunity account established under Subsection (14)(a) shall be an alternative to the existing benefits received by an individual eligible to receive Medicaid under this chapter.

(c) Subsection (14)(a) is not intended to expand the coverage of the Medicaid program.

Section 7. Section 26-18-12 is amended to read:

26-18-12. Expansion of 340B drug pricing programs.

(1) The department shall, in accordance with this section, expand the state Medicaid program's use of savings under the 340B drug pricing program.

(2) The department shall:

(a) determine:

(i) the feasibility of developing and implementing one or more 340B drug pricing programs for a specific disease, similar to the department's hemophilia disease management services; and

(ii) whether the 340B drug program for a specific disease results in greater savings for the department than other drug management programs for the particular disease;

(b) report by May 21, 2008 to the Legislature's Health and Human Services Interim Committee and ~~[Health and Human]~~ Social Services Appropriations Subcommittee regarding:

(i) potential cost savings to the state Medicaid program from expansion of the use of 340B drug pricing programs;

(ii) state Medicaid plan amendments or waivers necessary to implement increased use of 340B drug pricing programs by the state Medicaid program; and

(iii) projected implementation of the 340B drug pricing programs identified under the provisions of Subsection (2)(a);

(c) work with the Association for Utah Community Health to identify and assist community clinics that do not have 340B drug pricing programs to determine whether, under applicable federal law:

(i) the patients of the community health center would benefit from establishing a 340B drug pricing program either on site, or through a contract with a pharmacy provider; and

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(ii) the community health center can provide the 340B drug price savings to the community health center's Medicaid patients; and

(d) beginning May 21, 2008, report on a quarterly basis to the Legislature's Health and Human Services Interim Committee and ~~Health and Human~~ Social Services Appropriations Subcommittee on the department's progress towards implementing an expansion of the use of the 340B drug pricing program by community health centers.

(3) If the department needs a Medicaid waiver to implement a 340B drug program for a specific disease, the department shall comply with the reporting requirements of Subsection (2)(b)(ii) of this section, and the reporting requirements of Section 26-18-3.

(4) This section shall sunset in accordance with Section 63I-1-226.

Section 8. Section 26-18a-3 is amended to read:

26-18a-3. Purpose of committee.

(1) The committee shall work to:

(a) provide financial assistance for initial medical expenses of children who need organ transplants;

(b) obtain the assistance of volunteer and public service organizations; and

(c) fund activities as the committee designates for the purpose of educating the public about the need for organ donors.

(2) (a) The committee is responsible for awarding financial assistance funded by the restricted account.

(b) The financial assistance awarded by the committee under Subsection (1)(a) shall be in the form of interest free loans. The committee may establish terms for repayment of the loans, including a waiver of the requirement to repay any awards if, in the committee's judgment, repayment of the loan would impose an undue financial burden on the recipient.

(c) In making financial awards under Subsection (1)(a), the committee shall consider:

(i) need;

(ii) coordination with or enhancement of existing services or financial assistance, including availability of insurance or other state aid;

(iii) the success rate of the particular organ transplant procedure needed by the child; and

(iv) the extent of the threat to the child's life without the organ transplant.

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(3) The committee may only provide the assistance described in this section to children who have resided in Utah, or whose legal guardians have resided in Utah for at least six months prior to the date of assistance under this section.

(4) (a) The committee may expend up to 5% of its annual appropriation for administrative costs associated with the allocation of funds from the restricted account.

(b) The administrative costs shall be used for the costs associated with staffing the committee and for State Tax Commission costs in implementing Section 59-10-1308.

(5) The committee shall make an annual report to the ~~[Health and Human]~~ Social Services Appropriations Subcommittee regarding the programs and services funded by contributions to the restricted account.

Section 9. Section 26-18b-101 is amended to read:

26-18b-101. Organ Donation Contribution Fund created.

(1) (a) There is created a restricted special revenue fund known as the Organ Donation Contribution Fund.

(b) The Organ Donation Contribution Fund shall consist of:

- (i) private contributions;
- (ii) donations or grants from public or private entities;
- (iii) voluntary donations collected under Sections 41-1a-230.5 and 53-3-214.7; and
- (iv) interest and earnings on fund money.

(c) The cost of administering the Organ Donation Contribution Fund shall be paid from money in the fund.

(2) The Department of Health shall:

- (a) administer the funds deposited in the Organ Donation Contribution Fund;
- (b) select qualified organizations and distribute the funds in the Organ Donation

Contribution Fund in accordance with Subsection (3); and

(c) make an annual report on the fund to the ~~[Health and Human]~~ Social Services Appropriations Subcommittee.

(3) (a) The funds in the Organ Donation Contribution Fund may be distributed to a selected organization that:

- (i) promotes and supports organ donation;
- (ii) assists in maintaining and operating a statewide organ donation registry; and

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(iii) provides donor awareness education.

(b) An organization that meets the criteria of Subsections (3)(a)(i) through (iii) may apply to the Department of Health, in a manner prescribed by the department, to receive a portion of the money contained in the Organ Donation Contribution Fund.

Section 10. Section 26-47-102 is amended to read:

26-47-102. Prescription Drug Assistance Program.

(1) No later than October 1, 2003, the department shall implement a Prescription Drug Assistance Program. The program shall assist persons seeking information about how to obtain prescription drugs at a reduced price or no cost. The program shall:

(a) collect eligibility and enrollment information about programs that make prescription drugs available to consumers at a reduced price or no cost;

(b) provide information collected under Subsection (1)(a) to consumers upon request via a toll-free phone line, the Internet, and mail;

(c) inform pharmacists and other health care providers of the Prescription Drug Assistance Program; and

(d) assist consumers in completing applications to participate in programs identified under Subsection (1)(a).

(2) Any pharmaceutical manufacturer, distributor, or wholesaler operating in the state shall:

(a) notify the department of any program operated by it to provide prescription drugs to consumers at a reduced price or no cost; and

(b) provide the department with information about eligibility, enrollment, and benefits.

(3) Pharmacies, as defined in Title 58, Chapter 17b, Pharmacy Practice Act, shall notify their patients of the Prescription Drug Assistance Program. This notification shall include displaying the program's toll-free number, and may include distributing a brochure or oral communication.

(4) The department may accept grants, gifts, and donations of money or property for use by the Prescription Drug Assistance Program.

(5) The department shall report to the Health and Human Services Interim Committee and the ~~Joint Health and Human~~ Social Services Appropriations Subcommittee on the performance of the Prescription Drug Assistance Program prior to the 2004 and 2005 Annual

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General Sessions of the Legislature.

Section 11. Section 26-47-103 is amended to read:

26-47-103. Department to award grants for assistance to persons with bleeding disorders.

(1) For purposes of this section:

(a) "Hemophilia services" means a program for medical care, including the costs of blood transfusions, and the use of blood derivatives and blood clotting factors.

(b) "Person with a bleeding disorder" means a person:

(i) who is medically diagnosed with hemophilia or a bleeding disorder;

(ii) who is not eligible for Medicaid or the Children's Health Insurance Program; and

(iii) who has either:

(A) insurance coverage that excludes coverage for hemophilia services;

(B) exceeded the person's insurance plan's annual maximum benefits;

(C) exceeded the person's annual or lifetime maximum benefits payable under Title 31A, Chapter 29, Comprehensive Health Insurance Pool Act; or

(D) insurance coverage available under either private health insurance, Title 31A, Chapter 29, Comprehensive Health Insurance Pool Act, Utah mini COBRA coverage under Section 31A-22-722, or federal COBRA coverage, but the premiums for that coverage are greater than a percentage of the person's annual adjusted gross income as established by the department by administrative rule.

(2) (a) Within appropriations specified by the Legislature for this purpose, the department shall make grants to public and nonprofit entities who assist persons with bleeding disorders with the cost of obtaining hemophilia services or the cost of insurance premiums for coverage of hemophilia services.

(b) Applicants for grants under this section:

(i) shall be submitted to the department in writing; and

(ii) shall comply with Subsection (3).

(3) Applications for grants under this section shall include:

(a) a statement of specific, measurable objectives, and the methods to be used to assess the achievement of those objectives;

(b) a description of the personnel responsible for carrying out the activities of the grant

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along with a statement justifying the use of any grant funds for the personnel;

(c) letters and other forms of evidence showing that efforts have been made to secure financial and professional assistance and support for the services to be provided under the grant;

(d) a list of services to be provided by the applicant;

(e) the schedule of fees to be charged by the applicant; and

(f) other provisions as determined by the department.

(4) The department may accept grants, gifts, and donations of money or property for use by the grant program.

(5) (a) The department shall establish rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application form, process, and criteria it will use in awarding grants under this section.

(b) The department shall submit an annual report on the implementation of the grant program:

(i) by no later than November 1; and

(ii) to the Health and Human Services Interim Committee and the ~~Health and Human~~ Social Services Appropriations Subcommittee.

Section 12. Section 26-50-202 is amended to read:

26-50-202. Traumatic Brain Injury Advisory Committee -- Membership -- Time limit.

(1) On or after July 1 of each year, the executive director may create a Traumatic Brain Injury Advisory Committee of not more than nine members.

(2) The committee shall be composed of members of the community who are familiar with traumatic brain injury, its causes, diagnosis, treatment, rehabilitation, and support services, including:

(a) persons with a traumatic brain injury;

(b) family members of a person with a traumatic brain injury;

(c) representatives of an association which advocates for persons with traumatic brain injuries;

(d) specialists in a profession that works with brain injury patients; and

(e) department representatives.

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(3) The department shall provide staff support to the committee.

(4) (a) If a vacancy occurs in the committee membership for any reason, a replacement may be appointed for the unexpired term.

(b) The committee shall elect a chairperson from the membership.

(c) A majority of the committee constitutes a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the committee.

(d) The committee may adopt bylaws governing the committee's activities.

(e) A committee member may be removed by the executive director:

(i) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(ii) for good cause.

(5) The committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(6) A member may not receive compensation or benefits for the member's service, but, at the executive director's discretion, may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(7) Not later than November 30 of each year the committee shall provide a written report summarizing the activities of the committee to:

(a) the executive director of the department;

(b) the Health and Human Services Interim Committee; and

(c) the ~~Health and Human~~ Social Services Appropriations Subcommittee.

(8) The committee shall cease to exist on December 31 of each year, unless the executive director determines it necessary to continue.

Section 13. Section 26-52-202 is amended to read:

**26-52-202. Autism Treatment Account Advisory Committee -- Membership --
Time limit.**

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(1) (a) There is created an Autism Treatment Account Advisory Committee consisting of five members appointed by the governor to two-year terms of office as follows:

(i) one person holding a doctorate degree who has experience in treating persons with an autism spectrum disorder;

(ii) one person who is a physician licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, who has completed a residency program in pediatrics;

(iii) one person who is employed in the Department of Health; and

(iv) two persons from the community who are familiar with autism spectrum disorders and their effects, diagnosis, treatment, rehabilitation, and support needs, including:

(A) family members of a person with an autism spectrum disorder;

(B) representatives of an association which advocates for persons with an autism spectrum disorder; and

(C) specialists or professionals who work with persons with autism spectrum disorders.

(b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every year.

(c) If a vacancy occurs in the committee membership for any reason, a replacement may be appointed for the unexpired term.

(2) The department shall provide staff support to the committee.

(3) (a) The committee shall elect a chair from the membership on an annual basis.

(b) A majority of the committee constitutes a quorum at any meeting, and, if a quorum exists, the action of the majority of members present shall be the action of the committee.

(c) The executive director may remove a committee member:

(i) if the member is unable or unwilling to carry out the member's assigned responsibilities; or

(ii) for good cause.

(4) The committee may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules governing the committee's activities, which rules shall:

(a) comply with the requirements of this title; and

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(b) include:

(i) qualification criteria and procedures for selecting service and treatment providers that receive disbursements from the account, which criteria shall give additional consideration to providers that are willing to use low interest loans when providing services to individuals; and

(ii) provisions to address and avoid conflicts of interest that may arise in relation to:

(A) the committee's selection of providers and persons that receive referrals, disbursements, or assistance from the account; and

(B) other matters that may constitute a conflict of interest.

(5) The committee shall meet as necessary to carry out its duties and shall meet upon a call of the committee chair or a call of a majority of the committee members, but no more than four times per year.

(6) The committee shall comply with the procedures and requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

(7) Committee members shall receive no compensation or per diem allowance for their services.

(8) Not later than November 30 of each year, the committee shall provide a written report summarizing the activities of the committee to:

(a) the executive director of the department;

(b) the Health and Human Services Interim Committee; and

(c) the ~~[Health and Human]~~ Social Services Appropriations Subcommittee.

Section 14. Section 31A-29-113.5 is amended to read:

31A-29-113.5. Pilot Program for Chronic Disease and Pharmaceutical Management of Bleeding Disorders.

(1) Beginning July 1, 2005, and ending on July 1, 2010, the pool policy shall include a pilot program for hemophilia and bleeding disorders in accordance with this section.

(2) In accordance with this Subsection (2), the pool's pilot program shall:

(a) permit enrollees in the pool who have hemophilia or a bleeding disorder to participate in a pharmaceutical program for people with hemophilia and bleeding disorders administered by an entity that is qualified as a federal 340B Drug Pricing Program of the Public

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Health Service Act, enacted in Public Law 102-585, the Veterans Health Care Act of 1992;

(b) pay the eligible medical expenses for the enrollee's participation in the pilot program subject to all applicable plan benefits and limitations; and

(c) may not impose cost containment measures on an enrollee who participates in the pilot program greater than the cost containment measures imposed on other enrollees under the provisions of Subsection 31A-29-113(6).

(3) (a) The pool may establish the pilot program through the best means available for obtaining the lowest drug discount pricing, including administering the pilot program through the Department of Health's 340B Medicaid drug discount program or the Ryan White HIV drug discount program.

(b) The Department of Health shall assist the pool with administering the pilot program, including assistance in processing claims for the drug discount and chronic disease management services.

(4) (a) The board shall report to the commissioner and to the Health and Human Services Interim Committee prior to October 30, 2010 regarding the claims experience and pharmaceutical costs under the pilot program.

(b) The board may discontinue the pilot program created in this section prior to July 1, 2010, if prior to discontinuing the pilot program:

(i) the board reports on the need to discontinue the pilot program to the Health and Human Services Interim Committee and the ~~[Commerce and Revenue]~~ Business, Economic Development and Labor Appropriations Subcommittee; and

(ii) either:

(A) the commissioner and the board determine that the requirements of the pilot program jeopardize the actuarial soundness of the pool; or

(B) the entity that is qualified as a 340B Drug Pricing Program is disqualified by federal law from providing 340B drug pricing discounts to enrollees in the pool.

Section ~~41~~15. Section **35A-3-302** is amended to read:

35A-3-302. Eligibility requirements.

(1) The program of cash assistance provided under this part is known as the Family Employment Program.

(2) (a) The division shall submit a state plan to the Secretary of the United States

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Department of Health and Human Services to obtain federal funding under the Temporary Assistance for Needy Families Block Grant.

(b) The division shall make the plan consistent with this part and federal law.

(c) If a discrepancy arises between a provision of the state plan and this part, this part supersedes the provision in the state plan.

(3) The services and supports under this part are for both one-parent and two-parent families.

(4) To be eligible for cash assistance under this part, a family shall:

(a) have at least one minor dependent child; or

(b) have a parent who is in the third trimester of a pregnancy.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for eligibility and the amount of cash assistance a family is eligible to receive under this part based on:

(a) family size;

(b) family income;

(c) income disregards; and

(d) other relevant factors.

(6) The division shall disregard money on deposit in an Individual Development Account established under Section 35A-3-312 in determining eligibility.

(7) The department shall provide for an appeal of a determination of eligibility in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

(8) (a) The department shall make a report to either the Legislature's Executive Appropriations Committee or the [~~Commerce and Workforce Services Appropriations Subcommittee~~] Social Services Appropriations Subcommittee on any proposed rule change made under Subsection (5) that would modify the eligibility requirements or the amount of cash assistance a family would be eligible to receive.

(b) The department shall submit the report prior to implementing the proposed rule change and the report shall include:

(i) a description of the department's current practice or policy that it is proposing to change;

(ii) an explanation of why the department is proposing the change;

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- (iii) the effect of an increase or decrease in cash benefits on families; and
- (iv) the fiscal impact of the proposed change.

(c) The department may use the Notice of Proposed Rule Amendment form filed with the Division of Administrative Rules as its report so long as the notice contains all the information required under Subsection (8)(b).

Section ~~2~~16. Section **36-23-106** is amended to read:

36-23-106. Duties -- Reporting.

(1) The committee shall:

(a) conduct a sunrise review in accordance with Section 36-23-107 for all applications submitted in accordance with Section 36-23-105;

(b) conduct a sunset review for an occupational or professional license classification that is referred to the committee by any other legislative committee by applying:

- (i) the criteria in Section 36-23-107;
- (ii) the criteria in Title 63I, Chapter 1, Legislative Oversight and Sunset Act; and
- (iii) any other appropriate criteria; and
- (c) submit a written report by no later than December 31 of each calendar year to:
 - (i) the speaker of the House of Representatives;
 - (ii) the president of the Senate;
 - (iii) the chair of the House Rules Committee;
 - (iv) the chair of the Senate Rules Committee; and
 - (v) the chairs of the [~~Commerce and Workforce Services~~] Business, Economic Development, and Labor Appropriations Subcommittee.

(2) The written report required by Subsection (1)(c) shall include:

(a) all findings and recommendations made by the committee under Subsection (1) or (3) in that calendar year; and

(b) a summary report for each sunrise review conducted by the committee stating:

- (i) whether the sunrise review was conducted under Subsection (1) or (3);
- (ii) whether or not the sunrise review included a review of specific proposed statutory

language;

(iii) any action taken by the committee as a result of the sunrise review; and

(iv) the number of legislative members that voted in favor of the action described in

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Subsection (2)(b)(iii).

(3) The committee may:

(a) conduct a sunrise review of any proposal to newly regulate an occupation or profession;

(b) conduct any other review referred to it by the Legislature, the Legislative Management Committee, or other legislative committee; or

(c) conduct any other study related to regulation of an occupation or profession under Title 58, Occupations and Professions.

†

Legislative Review Note

— as of ~~2-7-12 11:34 AM~~

— ~~Office of Legislative Research and General Counsel~~; Section 17. Section 51-9-201 is amended to read:

51-9-201. Creation of Tobacco Settlement Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Tobacco Settlement Restricted Account."

(2) The account shall earn interest.

(3) The account shall consist of:

(a) until July 1, 2003, 50% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998;

(b) on and after July 1, 2003 and until July 1, 2004, 80% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998;

(c) on and after July 1, 2004 and until July 1, 2005, 70% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998;

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(d) on and after July 1, 2005 and until July 1, 2007, 75% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998;

(e) on and after July 1, 2007, 60% of all funds of every kind that are received by the state that are related to the settlement agreement that the state entered into with leading tobacco manufacturers on November 23, 1998; and

(f) interest earned on the account.

(4) To the extent that funds will be available for appropriation in a given fiscal year, those funds shall be appropriated from the account in the following order:

(a) \$10,452,900 to the Department of Health for the Children's Health Insurance Program created in Section 26-40-103 and for restoration of dental benefits in the Children's Health Insurance Program;

(b) \$3,847,100 to the Department of Health for alcohol, tobacco, and other drug prevention, reduction, cessation, and control programs that promote unified messages and make use of media outlets, including radio, newspaper, billboards, and television, and with a preference in funding given to tobacco-related programs;

(c) \$193,700 to the Administrative Office of the Courts and \$2,325,400 to the Department of Human Services for the statewide expansion of the drug court program;

(d) \$4,000,000 to the State Board of Regents for the University of Utah Health Sciences Center to benefit the health and well-being of Utah citizens through in-state research, treatment, and educational activities; and

(e) any remaining funds as directed by the Legislature through appropriation.

(5) (a) If tobacco funds in dispute for attorney fees are received by the state, those funds shall be divided and deposited in accordance with Subsection (3) and Section 51-9-202.

(b) The amount appropriated from the Tobacco Settlement Restricted Account to the Department of Health for alcohol, tobacco, and other drug programs described in Subsection (4)(b), including the funding preference for tobacco-related programs, shall be increased by up to \$2,000,000 in a given fiscal year to the extent that funds in dispute for attorney fees are available to the state for appropriation from the account.

(6) Each state agency identified in Subsection (4) shall provide an annual report on the program and activities funded under Subsection (4) to:

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(a) the Health and Human Services Interim Committee no later than September 1; and

(b) the ~~[Health and Human]~~ Social Services Appropriations Subcommittee.

Section 18. Section 51-9-203 is amended to read:

51-9-203. Requirements for tobacco programs.

(1) To be eligible to receive funding under this part for a tobacco prevention, reduction, cessation, or control program, an organization, whether private, governmental, or quasi-governmental, shall:

(a) submit a request to the Department of Health containing the following information:

(i) for media campaigns to prevent or reduce smoking, the request shall demonstrate sound management and periodic evaluation of the campaign's relevance to the intended audience, particularly in campaigns directed toward youth, including audience awareness of the campaign and recollection of the main message;

(ii) for school-based education programs to prevent and reduce youth smoking, the request shall describe how the program will be effective in preventing and reducing youth smoking;

(iii) for community-based programs to prevent and reduce smoking, the request shall demonstrate that the proposed program:

(A) has a comprehensive strategy with a clear mission and goals;

(B) provides for committed, caring, and professional leadership; and

(C) if directed toward youth:

(D) offers youth-centered activities in youth accessible facilities;

(II) is culturally sensitive, inclusive, and diverse;

(III) involves youth in the planning, delivery, and evaluation of services that affect them; and

(IV) offers a positive focus that is inclusive of all youth; and

(iv) for enforcement, control, and compliance program, the request shall demonstrate that the proposed program can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 19;

(b) agree, by contract, to file an annual written report with the Department of Health. The report shall contain the following:

(i) the amount funded;

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(ii) the amount expended;

(iii) a description of the program or campaign and the number of adults and youth who participated;

(iv) specific elements of the program or campaign meeting the applicable criteria set forth in Subsection (1)(a); and

(v) a statement concerning the success and effectiveness of the program or campaign;

(c) agree, by contract, to not use any funds received under this part directly or indirectly, to:

(i) engage in any lobbying or political activity, including the support of, or opposition to, candidates, ballot questions, referenda, or similar activities; or

(ii) engage in litigation with any tobacco manufacturer, retailer, or distributor, except to enforce:

(A) the provisions of the Master Settlement Agreement;

(B) Title 26, Chapter 38, Utah Clean Air Act;

(C) Title 26, Chapter 42, Civil Penalties for Tobacco Sales to Underaged Persons; and

(D) Title 77, Chapter 39, Sale of Tobacco and Alcohol to Underaged Persons; and

(d) agree, by contract, to repay the funds provided under this part if the organization:

(i) fails to file a timely report as required by Subsection (1)(b); or

(ii) uses any portion of the funds in violation of Subsection (1)(c).

(2) The Department of Health shall review and evaluate the success and effectiveness of any program or campaign that receives funding pursuant to a request submitted under Subsection (1). The review and evaluation:

(a) shall include a comparison of annual smoking trends;

(b) may be conducted by an independent evaluator; and

(c) may be paid for by funds appropriated from the account for that purpose.

(3) The Department of Health shall annually report to the ~~[Health and Human]~~ Social Services Appropriations Subcommittee on the reviews conducted pursuant to Subsection (2).

(4) An organization that fails to comply with the contract requirements set forth in Subsection (1) shall:

(a) repay the state as provided in Subsection (1)(d); and

(b) be disqualified from receiving funds under this part in any subsequent fiscal year.

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(5) The attorney general shall be responsible for recovering funds that are required to be repaid to the state under this section.

(6) Nothing in this section may be construed as applying to funds that are not appropriated under this part.

Section 19. Section 53B-20-104 is amended to read:

53B-20-104. Buildings and facilities -- Board approval of construction and purchases -- Rules.

(1) The board shall approve all new construction, repair, or purchase of educational and general buildings and facilities financed from any source at all institutions subject to the jurisdiction of the board.

(2) An institution may not submit plans or specifications to the State Building Board for the construction or alteration of buildings, structures, or facilities or for the purchases of equipment or fixtures for the structure without the authorization of the board.

(3) The board shall make rules establishing the conditions under which facilities may be eligible to request state funds for operations and maintenance.

(4) Before approving the purchase of a building, the board shall:

(a) determine whether or not the building will be eligible for state funds for operations and maintenance by applying the rules adopted under Subsection (3); and

(b) if the annual request for state funding for operations and maintenance will be greater than \$100,000, notify the speaker of the House, the president of the Senate, and the cochairs of the [~~Capital Facilities and Administrative Services~~] Infrastructure and General Government subcommittee of the Legislature's Joint Appropriation Committee.

Section 20. Section 59-21-2 is amended to read:

59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.

(1) (a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in

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accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(2) (a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 9-4-303.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Department of Transportation 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection (2)(h)(ii) to:

(A) counties;

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(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Transportation shall allocate the funds specified in Subsection

(2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Community and Culture to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Community and Culture may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:

(A) of the third, fourth, fifth, or sixth class;

(B) in which 4.5% or less of the mineral lease money within the state is generated; and

(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec.

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(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Community and Culture shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Community and Culture after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Community and Culture:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

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(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) \$1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

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(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development [~~and Human Resources Appropriation~~], and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

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Section 21. Section 62A-3-110 is amended to read:

62A-3-110. "Out and About" Homebound Transportation Assistance Fund.

(1) (a) There is created a restricted special revenue fund known as the "Out and About" Homebound Transportation Assistance Fund.

(b) The "Out and About" Homebound Transportation Assistance Fund shall consist of:

(i) private contributions;

(ii) donations or grants from public or private entities;

(iii) voluntary donations collected under Section 53-3-214.8; and

(iv) interest and earnings on account money.

(c) The cost of administering the "Out and About" Homebound Transportation Assistance Fund shall be paid from money in the fund.

(2) The Division of Aging and Adult Services in the Department of Human Services shall:

(a) administer the funds contained in the "Out and About" Homebound Transportation Assistance Fund;

(b) select qualified organizations and distribute the funds in the "Out and About" Homebound Transportation Assistance Fund in accordance with Subsection (3); and

(c) make an annual report on the "Out and About" Homebound Transportation Assistance Fund to the [Health and Human] Social Services Appropriations Subcommittee.

(3) (a) The division may distribute the funds in the "Out and About" Homebound Transportation Assistance Fund to a selected organization that provides public transportation to aging persons, high risk adults, or people with disabilities.

(b) An organization that provides public transportation to aging persons, high risk adults, or people with disabilities may apply to the Division of Aging and Adult Services, in a manner prescribed by the division, to receive all or part of the money contained in the "Out and About" Homebound Transportation Assistance Fund.

Section 22. Section 62A-4a-117 is amended to read:

62A-4a-117. Performance monitoring system -- Annual report.

(1) As used in this section:

(a) "Committee" means the state qualitative improvement committee, established by the division to provide community and professional input on the performance of the division.

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(b) "Performance indicators" means actual performance in a program, activity, or other function for which there is a performance standard.

(c) (i) "Performance standards" means the targeted or expected level of performance of each area in the child welfare system, including:

(A) child protection services;

(B) adoption;

(C) foster care; and

(D) other substitute care.

(ii) "Performance standards" includes the performance goals and measures in effect in 2008 that the division was subject to under federal court oversight, as amended pursuant to Subsection (2), including:

(A) the qualitative case review; and

(B) the case process review.

(2) (a) The division may not amend the performance standards unless the amendment is:

(i) necessary and proper for the effective administration of the division; or

(ii) necessary to comply with, or implement changes in, the law.

(b) Before amending the performance standards, the division shall provide written notice of the proposed amendment to the committee.

(c) The notice described in Subsection (2)(b) shall include:

(i) the proposed amendment;

(ii) a summary of the reason for the proposed amendment; and

(iii) the proposed effective date of the amendment.

(d) Within 45 days after the day on which the division provides the notice described in Subsection (2)(b) to the committee, the committee shall provide to the division written comments on the proposed amendment.

(e) The division may not implement a proposed amendment to the performance standards until the earlier of:

(i) seven days after the day on which the division receives the written comments regarding the proposed change described in Subsection (2)(d); or

(ii) 52 days after the day on which the division provides the notice described in

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Subsection (2)(b) to the committee.

(f) The division shall:

(i) give full, fair, and good faith consideration to all comments and objections received from the committee;

(ii) notify the committee in writing of:

(A) the division's decision regarding the proposed amendment; and

(B) the reasons that support the decision;

(iii) include complete information on all amendments to the performance standards in the report described in Subsection (4); and

(iv) post the changes on the division's website.

(3) The division shall maintain a performance monitoring system to regularly:

(a) collect information on performance indicators; and

(b) compare performance indicators to performance standards.

(4) Before January 1 each year the director shall submit a written report to the Child Welfare Legislative Oversight Panel and the ~~[Joint Health and Human]~~ Social Services Appropriations Subcommittee that includes:

(a) a comparison between the performance indicators for the prior fiscal year and the performance standards;

(b) for each performance indicator that does not meet the performance standard:

(i) the reason the standard was not met;

(ii) the measures that need to be taken to meet the standard; and

(iii) the division's plan to comply with the standard for the current fiscal year;

(c) data on the extent to which new and experienced division employees have received training pursuant to statute and division policy; and

(d) an analysis of the use and efficacy of in-home services, both before and after removal of a child from the child's home.

Section 23. Section **62A-4a-207** is amended to read:

62A-4a-207. Legislative Oversight Panel -- Responsibilities.

(1) (a) There is created the Child Welfare Legislative Oversight Panel composed of the following members:

(i) two members of the Senate, one from the majority party and one from the minority

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party, appointed by the president of the Senate; and

(ii) three members of the House of Representatives, two from the majority party and one from the minority party, appointed by the speaker of the House of Representatives.

(b) Members of the panel shall serve for two-year terms, or until their successors are appointed.

(c) A vacancy exists whenever a member ceases to be a member of the Legislature, or when a member resigns from the panel. Vacancies shall be filled by the appointing authority, and the replacement shall fill the unexpired term.

(2) The president of the Senate shall designate one of the senators appointed to the panel under Subsection (1) as the Senate chair of the panel. The speaker of the House of Representatives shall designate one of the representatives appointed to the panel under Subsection (1) as the House chair of the panel.

(3) The panel shall follow the interim committee rules established by the Legislature.

(4) The panel shall:

(a) examine and observe the process and execution of laws governing the child welfare system by the executive branch and the judicial branch;

(b) upon request, receive testimony from the public, the juvenile court, and from all state agencies involved with the child welfare system, including the division, other offices and agencies within the department, the attorney general's office, the Office of Guardian Ad Litem, and school districts;

(c) before October 1 of each year, receive a report from the judicial branch identifying the cases not in compliance with the time limits established in the following sections, and the reasons for noncompliance:

(i) Subsection 78A-6-306(1)(a), regarding shelter hearings;

(ii) Section 78A-6-309, regarding pretrial and adjudication hearings;

(iii) Section 78A-6-312, regarding dispositional hearings and reunification services;

and

(iv) Section 78A-6-314, regarding permanency hearings and petitions for termination;

(d) receive recommendations from, and make recommendations to the governor, the Legislature, the attorney general, the division, the Office of Guardian Ad Litem, the juvenile court, and the public;

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(e) (i) receive reports from the executive branch and the judicial branch on budgetary issues impacting the child welfare system; and

(ii) recommend, as the panel considers advisable, budgetary proposals to the [Health and Human] Social Services Appropriations Subcommittee and the Executive Offices and Criminal Justice Appropriations Subcommittee, which recommendation should be made before December 1 of each year;

(f) study and recommend proposed changes to laws governing the child welfare system;

(g) study actions the state can take to preserve, unify, and strengthen the child's family ties whenever possible in the child's best interest, including recognizing the constitutional rights and claims of parents whenever those family ties are severed or infringed;

(h) perform such other duties related to the oversight of the child welfare system as the panel considers appropriate; and

(i) annually report the panel's findings and recommendations to the president of the Senate, the speaker of the House of Representatives, the Health and Human Services Interim Committee, and the Judiciary Interim Committee.

(5) (a) The panel has authority to review and discuss individual cases.

(b) When an individual case is discussed, the panel's meeting may be closed pursuant to Title 52, Chapter 4, Open and Public Meetings Act.

(c) When discussing an individual case, the panel shall make reasonable efforts to identify and consider the concerns of all parties to the case.

(6) (a) The panel has authority to make recommendations to the Legislature, the governor, the Board of Juvenile Court Judges, the division, and any other statutorily created entity related to the policies and procedures of the child welfare system. The panel does not have authority to make recommendations to the court, the division, or any other public or private entity regarding the disposition of any individual case.

(b) The panel may hold public hearings, as it considers advisable, in various locations within the state in order to afford all interested persons an opportunity to appear and present their views regarding the child welfare system in this state.

(7) (a) All records of the panel regarding individual cases shall be classified private, and may be disclosed only in accordance with federal law and the provisions of Title 63G,

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Chapter 2, Government Records Access and Management Act.

(b) The panel shall have access to all of the division's records, including those regarding individual cases. In accordance with Title 63G, Chapter 2, Government Records Access and Management Act, all documents and information received by the panel shall maintain the same classification that was designated by the division.

(8) In order to accomplish its oversight functions, the panel has:

(a) all powers granted to legislative interim committees in Section 36-12-11; and

(b) legislative subpoena powers under Title 36, Chapter 14, Legislative Subpoena

Powers.

(9) Members of the panel shall receive salary and expenses in accordance with Section 36-2-2.

(10) (a) The Office of Legislative Research and General Counsel shall provide staff support to the panel.

(b) The panel is authorized to employ additional professional assistance and other staff members as it considers necessary and appropriate.

Section 24. Section 62A-7-203 is amended to read:

62A-7-203. Detention -- Physical facilities.

The division may issue requests for proposals to allow for the private construction of facilities suitable to meet the detention requirements of any county or group of counties, subject to approval by the governor. The governor shall furnish an analysis of the benefits of the proposals received to the [Capital Facilities and Administrative Services] Infrastructure and General Government Appropriations Subcommittee for its review.

Section 25. Section 62A-15-103 is amended to read:

62A-15-103. Division -- Creation -- Responsibilities.

(1) There is created the Division of Substance Abuse and Mental Health within the department, under the administration and general supervision of the executive director. The division is the substance abuse authority and the mental health authority for this state.

(2) The division shall:

(a) (i) educate the general public regarding the nature and consequences of substance abuse by promoting school and community-based prevention programs;

(ii) render support and assistance to public schools through approved school-based

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substance abuse education programs aimed at prevention of substance abuse;

(iii) promote or establish programs for the prevention of substance abuse within the community setting through community-based prevention programs;

(iv) cooperate and assist other organizations and private treatment centers for substance abusers, by providing them with essential materials for furthering programs of prevention and rehabilitation of actual and potential substance abusers; and

(v) promote or establish programs for education and certification of instructors to educate persons convicted of driving under the influence of alcohol or drugs or driving with any measurable controlled substance in the body;

(b) (i) collect and disseminate information pertaining to mental health;

(ii) provide direction over the state hospital including approval of its budget, administrative policy, and coordination of services with local service plans;

(iii) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to educate families concerning mental illness and promote family involvement, when appropriate, and with patient consent, in the treatment program of a family member; and

(iv) promulgate rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to direct that all individuals receiving services through local mental health authorities or the Utah State Hospital be informed about and, if desired, provided assistance in completion of a declaration for mental health treatment in accordance with Section 62A-15-1002;

(c) (i) consult and coordinate with local substance abuse authorities and local mental health authorities regarding programs and services;

(ii) provide consultation and other assistance to public and private agencies and groups working on substance abuse and mental health issues;

(iii) promote and establish cooperative relationships with courts, hospitals, clinics, medical and social agencies, public health authorities, law enforcement agencies, education and research organizations, and other related groups;

(iv) promote or conduct research on substance abuse and mental health issues, and submit to the governor and the Legislature recommendations for changes in policy and legislation;

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(v) receive, distribute, and provide direction over public funds for substance abuse and mental health services;

(vi) monitor and evaluate programs provided by local substance abuse authorities and local mental health authorities;

(vii) examine expenditures of any local, state, and federal funds;

(viii) monitor the expenditure of public funds by:

(A) local substance abuse authorities;

(B) local mental health authorities; and

(C) in counties where they exist, the private contract provider that has an annual or otherwise ongoing contract to provide comprehensive substance abuse or mental health programs or services for the local substance abuse authority or local mental health authorities;

(ix) contract with local substance abuse authorities and local mental health authorities to provide a comprehensive continuum of services in accordance with division policy, contract provisions, and the local plan;

(x) contract with private and public entities for special statewide or nonclinical services according to division rules;

(xi) review and approve each local substance abuse authority's plan and each local mental health authority's plan in order to ensure:

(A) a statewide comprehensive continuum of substance abuse services;

(B) a statewide comprehensive continuum of mental health services; and

(C) appropriate expenditure of public funds;

(xii) review and make recommendations regarding each local substance abuse authority's contract with its provider of substance abuse programs and services and each local mental health authority's contract with its provider of mental health programs and services to ensure compliance with state and federal law and policy;

(xiii) monitor and ensure compliance with division rules and contract requirements;
and

(xiv) withhold funds from local substance abuse authorities, local mental health authorities, and public and private providers for contract noncompliance, failure to comply with division directives regarding the use of public funds, or for misuse of public funds or money;

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(d) assure that the requirements of this part are met and applied uniformly by local substance abuse authorities and local mental health authorities across the state;

(e) require each local substance abuse authority and each local mental health authority to submit its plan to the division by May 1 of each year;

(f) conduct an annual program audit and review of each local substance abuse authority in the state and its contract provider and each local mental health authority in the state and its contract provider, including:

(i) a review and determination regarding whether:

(A) public funds allocated to local substance abuse authorities and local mental health authorities are consistent with services rendered and outcomes reported by them or their contract providers; and

(B) each local substance abuse authority and each local mental health authority is exercising sufficient oversight and control over public funds allocated for substance abuse and mental health programs and services; and

(ii) items determined by the division to be necessary and appropriate;

(g) by July 1 of each year, provide to the Health and Human Services Interim Committee and the [Health and Human] Social Services Appropriations Subcommittee a written report that includes:

(i) the annual audit and review;

(ii) the financial expenditures of each local substance abuse authority and its contract provider and each local mental health authority and its contract provider;

(iii) the status of the compliance of each local authority and its contract provider with its plan, state statutes, and the provisions of the contract awarded; and

(iv) whether audit guidelines established under Section 62A-15-110 and Subsection 67-3-1(10) provide the division with sufficient criteria and assurances of appropriate expenditures of public funds; and

(h) if requested by the Health and Human Services Interim Committee or the [Health and Human] Social Services Appropriations Subcommittee, provide an oral report as requested.

(3) (a) The division may refuse to contract with and may pursue its legal remedies against any local substance abuse authority or local mental health authority that fails, or has

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failed, to expend public funds in accordance with state law, division policy, contract provisions, or directives issued in accordance with state law.

(b) The division may withhold funds from a local substance abuse authority or local mental health authority if the authority's contract with its provider of substance abuse or mental health programs or services fails to comply with state and federal law or policy.

(4) Before reissuing or renewing a contract with any local substance abuse authority or local mental health authority, the division shall review and determine whether the local substance abuse authority or local mental health authority is complying with its oversight and management responsibilities described in Sections 17-43-201, 17-43-203, 17-43-303, and 17-43-309. Nothing in this Subsection (4) may be used as a defense to the responsibility and liability described in Section 17-43-303 and to the responsibility and liability described in Section 17-43-203.

(5) In carrying out its duties and responsibilities, the division may not duplicate treatment or educational facilities that exist in other divisions or departments of the state, but shall work in conjunction with those divisions and departments in rendering the treatment or educational services that those divisions and departments are competent and able to provide.

(6) (a) The division may accept in the name of and on behalf of the state donations, gifts, devises, or bequests of real or personal property or services to be used as specified by the donor.

(b) Those donations, gifts, devises, or bequests shall be used by the division in performing its powers and duties. Any money so obtained shall be considered private funds and shall be deposited into an interest-bearing restricted special revenue fund to be used by the division for substance abuse or mental health services. The state treasurer may invest the fund and all interest shall remain with the fund.

(7) The division shall annually review with each local substance abuse authority and each local mental health authority the authority's statutory and contract responsibilities regarding:

(a) the use of public funds;

(b) oversight responsibilities regarding public funds; and

(c) governance of substance abuse and mental health programs and services.

(8) The Legislature may refuse to appropriate funds to the division upon the division's

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failure to comply with the provisions of this part.

(9) If a local substance abuse authority contacts the division under Subsection 17-43-201(9) for assistance in providing treatment services to a pregnant woman or pregnant minor, the division shall:

(a) refer the pregnant woman or pregnant minor to a treatment facility that has the capacity to provide the treatment services; or

(b) otherwise ensure that treatment services are made available to the pregnant woman or pregnant minor.

Section 26. Section 63A-5-104 is amended to read:

63A-5-104. Definitions -- Capital development and capital improvement process

-- Approval requirements -- Limitations on new projects -- Emergencies.

(1) As used in this section:

(a) "Capital developments" means a:

(i) remodeling, site, or utility project with a total cost of \$2,500,000 or more;

(ii) new facility with a construction cost of \$500,000 or more; or

(iii) purchase of real property where an appropriation is requested to fund the purchase.

(b) "Capital improvements" means a:

(i) remodeling, alteration, replacement, or repair project with a total cost of less than \$2,500,000;

(ii) site and utility improvement with a total cost of less than \$2,500,000; or

(iii) new facility with a total construction cost of less than \$500,000.

(c) (i) "New facility" means the construction of a new building on state property regardless of funding source.

(ii) "New facility" includes:

(A) an addition to an existing building; and

(B) the enclosure of space that was not previously fully enclosed.

(iii) "New facility" does not mean:

(A) the replacement of state-owned space that is demolished or that is otherwise removed from state use, if the total construction cost of the replacement space is less than \$2,500,000; or

(B) the construction of facilities that do not fully enclose a space.

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(d) "Replacement cost of existing state facilities" means the replacement cost, as determined by the Division of Risk Management, of state facilities, excluding auxiliary facilities as defined by the State Building Board.

(e) "State funds" means public money appropriated by the Legislature.

(2) The State Building Board, on behalf of all state agencies, commissions, departments, and institutions shall submit its capital development recommendations and priorities to the Legislature for approval and prioritization.

(3) (a) Except as provided in Subsections (3)(b), (d), and (e), a capital development project may not be constructed on state property without legislative approval.

(b) Legislative approval is not required for a capital development project that consists of the design or construction of a new facility if the State Building Board determines that:

(i) the requesting state agency, commission, department, or institution has provided adequate assurance that:

(A) state funds will not be used for the design or construction of the facility; and

(B) the state agency, commission, department, or institution has a plan for funding in place that will not require increased state funding to cover the cost of operations and maintenance to, or state funding for, immediate or future capital improvements to the resulting facility; and

(ii) the use of the state property is:

(A) appropriate and consistent with the master plan for the property; and

(B) will not create an adverse impact on the state.

(c) (i) The Division of Facilities Construction and Management shall maintain a record of facilities constructed under the exemption provided in Subsection (3)(b).

(ii) For facilities constructed under the exemption provided in Subsection (3)(b), a state agency, commission, department, or institution may not request:

(A) increased state funds for operations and maintenance; or

(B) state capital improvement funding.

(d) Legislative approval is not required for:

(i) the renovation, remodeling, or retrofitting of an existing facility with nonstate funds that has been approved by the State Building Board;

(ii) a facility to be built with nonstate funds and owned by nonstate entities within

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research park areas at the University of Utah and Utah State University;

(iii) a facility to be built at This is the Place State Park by This is the Place Foundation with funds of the foundation, including grant money from the state, or with donated services or materials;

(iv) a capital project that:

(A) is funded by:

(I) the Uintah Basin Revitalization Fund; or

(II) the Navajo Revitalization Fund; and

(B) does not provide a new facility for a state agency or higher education institution; or

(v) a capital project on school and institutional trust lands that is funded by the School and Institutional Trust Lands Administration from the Land Grant Management Fund and that does not fund construction of a new facility for a state agency or higher education institution.

(e) (i) Legislative approval is not required for capital development projects to be built for the Department of Transportation as a result of an exchange of real property under Section 72-5-111.

(ii) When the Department of Transportation approves those exchanges, it shall notify the president of the Senate, the speaker of the House, and the cochairs of the [~~Capital Facilities and Administrative Services~~] Infrastructure and General Government Appropriations Subcommittee of the Legislature's Joint Appropriation Committee about any new facilities to be built under this exemption.

(4) (a) (i) The State Building Board, on behalf of all state agencies, commissions, departments, and institutions shall by January 15 of each year, submit a list of anticipated capital improvement requirements to the Legislature for review and approval.

(ii) The list shall identify:

(A) a single project that costs more than \$1,000,000;

(B) multiple projects within a single building or facility that collectively cost more than \$1,000,000;

(C) a single project that will be constructed over multiple years with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

(D) multiple projects within a single building or facility with a yearly cost of \$1,000,000 or more and an aggregate cost of more than \$2,500,000;

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(E) a single project previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000; and

(F) multiple projects within a single building or facility previously reported to the Legislature as a capital improvement project under \$1,000,000 that, because of an increase in costs or scope of work, will now cost more than \$1,000,000.

(b) Unless otherwise directed by the Legislature, the State Building Board shall prioritize capital improvements from the list submitted to the Legislature up to the level of appropriation made by the Legislature.

(c) In prioritizing capital improvements, the State Building Board shall consider the results of facility evaluations completed by an architect/engineer as stipulated by the building board's facilities maintenance standards.

(d) The State Building Board may require an entity that benefits from a capital improvement project to repay the capital improvement funds from savings that result from the project.

(e) The State Building Board may provide capital improvement funding to a single project, or to multiple projects within a single building or facility, even if the total cost of the project or multiple projects is \$2,500,000 or more, if:

(i) the capital improvement project or multiple projects require more than one year to complete; and

(ii) the Legislature has affirmatively authorized the capital improvement project or multiple projects to be funded in phases.

(5) The Legislature may authorize:

(a) the total square feet to be occupied by each state agency; and

(b) the total square feet and total cost of lease space for each agency.

(6) (a) Except as provided in Subsection (6)(b) or (c), the Legislature may not fund the design or construction of any new capital development projects, except to complete the funding of projects for which partial funding has been previously provided, until the Legislature has appropriated 1.1% of the replacement cost of existing state facilities to capital improvements.

(b) (i) As used in this Subsection (6)(b):

(A) "Education Fund budget deficit" is as defined in Section 63J-1-312; and

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(B) "General Fund budget deficit" is as defined in Section 63J-1-312.

(ii) If the Legislature determines that an Education Fund budget deficit or a General Fund budget deficit exists, the Legislature may, in eliminating the deficit, reduce the amount appropriated to capital improvements to 0.9% of the replacement cost of state buildings.

(c) The requirements under Subsections (6)(a) and (b) do not apply to the 2008-09, 2009-10, 2010-11, and 2011-12 fiscal years.

(7) (a) If, after approval of capital development and capital improvement priorities by the Legislature under this section, emergencies arise that create unforeseen critical capital improvement projects, the State Building Board may, notwithstanding the requirements of Title 63J, Chapter 1, Budgetary Procedures Act, reallocate capital improvement funds to address those projects.

(b) The State Building Board shall report any changes it makes in capital improvement allocations approved by the Legislature to:

(i) the Office of Legislative Fiscal Analyst within 30 days of the reallocation; and

(ii) the Legislature at its next annual general session.

(8) (a) The State Building Board may adopt a rule allocating to institutions and agencies their proportionate share of capital improvement funding.

(b) The State Building Board shall ensure that the rule:

(i) reserves funds for the Division of Facilities Construction and Management for emergency projects; and

(ii) allows the delegation of projects to some institutions and agencies with the requirement that a report of expenditures will be filed annually with the Division of Facilities Construction and Management and appropriate governing bodies.

(9) It is the intent of the Legislature that in funding capital improvement requirements under this section the General Fund be considered as a funding source for at least half of those costs.

Section 27. Section **63A-5-701** is amended to read:

63A-5-701. State Building Energy Efficiency Program.

(1) For purposes of this section:

(a) "Division" means the Division of Facilities Construction and Management established in Section 63A-5-201.

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(b) "Energy efficiency measures" means actions taken or initiated by a state agency that reduce the state agency's energy use, increase the state agency's energy efficiency, reduce source energy consumption, reduce water consumption, or lower the costs of energy or water to the state agency.

(c) "Energy savings agreement" means an agreement entered into by a state agency whereby the state agency implements energy efficiency measures and finances the costs associated with implementation of energy efficiency measures using the stream of expected savings in utility costs resulting from implementation of the energy efficiency measures as the funding source for repayment.

(d) "State agency" means each executive, legislative, and judicial branch department, agency, board, commission, or division, and includes a state institution of higher education as defined in Section 53B-3-102.

(e) "State Building Energy Efficiency Program" means a program established under this section for the purpose of improving energy efficiency measures and reducing the energy costs for state facilities.

(f) (i) "State facility" means any building, structure, or other improvement that is constructed on property owned by the state, its departments, commissions, institutions, or agencies, or a state institution of higher education.

(ii) "State facility" does not mean:

(A) an unoccupied structure that is a component of the state highway system;

(B) a privately owned structure that is located on property owned by the state, its departments, commissions, institutions, or agencies, or a state institution of higher education;

or

(C) a structure that is located on land administered by the School and Institutional Trust Lands Administration under a lease, permit, or contract with the School and Institutional Trust Lands Administration.

(2) The division shall:

(a) develop and administer the state building energy efficiency program, which shall include guidelines and procedures to improve energy efficiency in the maintenance and management of state facilities;

(b) provide information and assistance to state agencies in their efforts to improve

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energy efficiency;

(c) analyze energy consumption by state agencies to identify opportunities for improved energy efficiency;

(d) establish an advisory group composed of representatives of state agencies to provide information and assistance in the development and implementation of the state building energy efficiency program; and

(e) submit to the governor and to the [~~Capital Facilities and Administrative Services~~] Infrastructure and General Government Appropriations Subcommittee of the Legislature an annual report that:

(i) identifies strategies for long-term improvement in energy efficiency;

(ii) identifies goals for energy conservation for the upcoming year; and

(iii) details energy management programs and strategies that were undertaken in the previous year to improve the energy efficiency of state agencies and the energy savings achieved.

(3) Each state agency shall:

(a) designate a staff member that is responsible for coordinating energy efficiency efforts within the agency;

(b) provide energy consumption and costs information to the division;

(c) develop strategies for improving energy efficiency and reducing energy costs; and

(d) provide the division with information regarding the agency's energy efficiency and reduction strategies.

(4) (a) A state agency may enter into an energy savings agreement for a term of up to 20 years.

(b) Before entering into an energy savings agreement, the state agency shall:

(i) utilize the division to oversee the project unless the project is exempt from the division's oversight or the oversight is delegated to the agency under the provisions of Section 63A-5-206;

(ii) obtain the prior approval of the governor or the governor's designee; and

(iii) provide the Office of Legislative Fiscal Analyst with a copy of the proposed agreement before the agency enters into the agreement.

Section 28. Section **63B-3-301** is amended to read:

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63B-3-301. Legislative intent -- Additional projects.

(1) It is the intent of the Legislature that, for any lease purchase agreement that the Legislature may authorize the Division of Facilities Construction and Management to enter into during its 1994 Annual General Session, the State Building Ownership Authority, at the reasonable rates and amounts it may determine, and with technical assistance from the state treasurer, the director of the Division of Finance, and the director of the Governor's Office of Planning and Budget, may seek out the most cost effective and prudent lease purchase plans available to the state and may, pursuant to Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining to:

- (a) the lease purchase obligation; or
- (b) lease rental payments under the lease purchase obligation.

(2) It is the intent of the Legislature that the Department of Transportation dispose of surplus real properties and use the proceeds from those properties to acquire or construct through the Division of Facilities Construction and Management a new District Two Complex.

(3) It is the intent of the Legislature that the State Building Board allocate funds from the Capital Improvement appropriation and donations to cover costs associated with the upgrade of the Governor's Residence that go beyond the restoration costs which can be covered by insurance proceeds.

(4) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$10,600,000 for the construction of a Natural Resources Building in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the director of the Governor's Office of Planning and

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Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Natural Resources not be increased to fund these lease payments.

(5) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$8,300,000 for the acquisition of the office buildings currently occupied by the Department of Environmental Quality and approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake City, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the director of the Governor's Office of Planning and Budget.

(6) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$9,000,000 for the acquisition or construction of up to two field offices for the Department of Human Services in the southwestern portion of Salt Lake County, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the director of the Governor's Office of Planning and Budget.

(7) (a) It is the intent of the Legislature to authorize the State Building Ownership

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Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in which participation interests may be created, to provide up to \$5,000,000 for the acquisition or construction of up to 13 stores for the Department of Alcoholic Beverage Control, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the director of the Governor's Office of Planning and Budget.

(c) It is the intent of the Legislature that the operating budget for the Department of Alcoholic Beverage Control not be increased to fund these lease payments.

(8) (a) It is the intent of the Legislature to authorize the State Building Ownership Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in which participation interests may be created, to provide up to \$6,800,000 for the construction of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of 300 beds, together with additional amounts necessary to:

- (i) pay costs of issuance;
- (ii) pay capitalized interest; and
- (iii) fund any debt service reserve requirements.

(b) It is the intent of the Legislature that the authority seek out the most cost effective and prudent lease purchase plan available with technical assistance from the state treasurer, the director of the Division of Finance, and the director of the Governor's Office of Planning and Budget.

(9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex in Salt Lake City, becomes law, it is the intent of the Legislature that:

(a) the Legislative Management Committee, the Interim Appropriation Subcommittees for General Government and Capital Facilities and Executive Offices, Courts, and Corrections,

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the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and the State Building Board participate in a review of the proposed facility design for the Courts Complex no later than December 1994; and

(b) although this review will not affect the funding authorization issued by the 1994 Legislature, it is expected that Division of Facilities Construction and Management will give proper attention to concerns raised in these reviews and make appropriate design changes pursuant to the review.

(10) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services, develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services;

(b) the development process use existing prototype proposals unless it can be quantifiably demonstrated that the proposals cannot be used;

(c) the facility is designed so that with minor modifications, it can accommodate detention, observation and assessment, transition, and secure programs as needed at specific geographical locations;

(d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to design and construct one facility and design the other;

(ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services shall:

(A) determine the location for the facility for which design and construction are fully funded; and

(B) in conjunction with the Division of Facilities Construction and Management, determine the best methodology for design and construction of the fully funded facility;

(e) the Division of Facilities Construction and Management submit the prototype as soon as possible to the [Capital Facilities and Administrative Services Appropriation] Infrastructure and General Government Appropriations Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation Subcommittee for review;

(f) the Division of Facilities Construction and Management issue a Request for

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Proposal for one of the facilities, with that facility designed and constructed entirely by the winning firm:

(g) the other facility be designed and constructed under the existing Division of Facilities Construction and Management process;

(h) that both facilities follow the program needs and specifications as identified by Division of Facilities Construction and Management and the Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

(i) the fully funded facility should be ready for occupancy by September 1, 1995.

(11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair Park Master Study be used by the Division of Facilities Construction and Management to develop a master plan for the State Fair Park that:

(a) identifies capital facilities needs, capital improvement needs, building configuration, and other long term needs and uses of the State Fair Park and its buildings; and

(b) establishes priorities for development, estimated costs, and projected timetables.

(12) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management, in cooperation with the Division of Parks and Recreation and surrounding counties, develop a master plan and general program for the phased development of Antelope Island;

(b) the master plan:

(i) establish priorities for development;

(ii) include estimated costs and projected time tables; and

(iii) include recommendations for funding methods and the allocation of responsibilities between the parties; and

(c) the results of the effort be reported to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee and [~~Capital Facilities and Administrative Services Appropriation~~] Infrastructure and General Government Appropriations Subcommittee.

(13) It is the intent of the Legislature to authorize the University of Utah to use:

(a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

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(b) donated and other nonappropriated funds to plan, design, and construct the Biology Research Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(14) It is the intent of the Legislature to authorize Utah State University to use:

(a) federal and other funds to plan, design, and construct the Bee Lab under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) donated and other nonappropriated funds to plan, design, and construct an Athletic Facility addition and renovation under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(c) donated and other nonappropriated funds to plan, design, and construct a renovation to the Nutrition and Food Science Building under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(d) federal and private funds to plan, design, and construct the Millville Research Facility under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

(a) institutional funds to plan, design, and construct a remodel to the Auto Trades Office and Learning Center under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director;

(b) institutional funds to plan, design, and construct the relocation and expansion of a temporary maintenance compound under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(c) institutional funds to plan, design, and construct the Alder Amphitheater under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(16) It is the intent of the Legislature to authorize Southern Utah University to use:

(a) federal funds to plan, design, and construct a Community Services Building under

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the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director; and

(b) donated and other nonappropriated funds to plan, design, and construct a stadium expansion under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(17) It is the intent of the Legislature to authorize the Department of Corrections to use donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional Facility in Gunnison under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(18) If the Utah National Guard does not relocate in the Signetics Building, it is the intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City to plan and design an Armory in Provo, Utah, under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(19) It is the intent of the Legislature that the Utah Department of Transportation use \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

(20) It is the intent of the Legislature that the Ogden-Weber Applied Technology Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building and purchase equipment for use in that building that could be used in metal trades or other programs in other Applied Technology Centers.

(21) It is the intent of the Legislature that the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be considered as the highest priority projects for construction funding in fiscal year 1996.

(22) It is the intent of the Legislature that:

(a) the Division of Facilities Construction and Management complete physical space utilization standards by June 30, 1995, for the use of technology education activities;

(b) these standards are to be developed with and approved by the State Office of Education, the Board of Regents, and the Utah State Building Board;

(c) these physical standards be used as the basis for:

(i) determining utilization of any technology space based on number of stations capable

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and occupied for any given hour of operation; and

(ii) requests for any new space or remodeling;

(d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the Ogden-Weber Applied Technology Center are exempt from this process; and

(e) the design of the Davis Applied Technology Center take into account the utilization formulas established by the Division of Facilities Construction and Management.

(23) It is the intent of the Legislature that Utah Valley State College may use the money from the bond allocated to the remodel of the Signetics building to relocate its technical education programs at other designated sites or facilities under the supervision of the director of the Division of Facilities Construction and Management unless supervisory authority is delegated by the director.

(24) It is the intent of the Legislature that the money provided for the fiscal year 1995 project for the Bridgerland Applied Technology Center be used to design and construct the space associated with Utah State University and design the technology center portion of the project.

(25) It is the intent of the Legislature that the governor provide periodic reports on the expenditure of the funds provided for electronic technology, equipment, and hardware to the Public Utilities and Technology Interim Committee, the [~~Capital Facilities and Administrative Services Appropriation~~] Infrastructure and General Government Appropriations Subcommittee, and the Legislative Management Committee.

Section 29. Section 63J-1-201 is amended to read:

63J-1-201. Governor's proposed budget to Legislature -- Contents -- Preparation -- Appropriations based on current tax laws and not to exceed estimated revenues.

(1) The governor shall deliver, not later than 30 days before the date the Legislature convenes in the annual general session, a confidential draft copy of the governor's proposed budget recommendations to the Office of the Legislative Fiscal Analyst according to the requirements of this section.

(2) (a) When submitting a proposed budget, the governor shall, within the first three days of the annual general session of the Legislature, submit to the presiding officer of each house of the Legislature:

(i) a proposed budget for the ensuing fiscal year;

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(ii) a schedule for all of the proposed changes to appropriations in the proposed budget, with each change clearly itemized and classified; and

(iii) as applicable, a document showing proposed changes in estimated revenues that are based on changes in state tax laws or rates.

(b) The proposed budget shall include:

(i) a projection of the total estimated revenues and appropriations for the next fiscal year;

(ii) the source of changes to all direct, indirect, and in-kind matching funds for all federal grants or assistance programs included in the budget;

(iii) a plan of proposed changes to appropriations and estimated revenues for the next fiscal year that is based upon the current fiscal year state tax laws and rates;

(iv) an itemized estimate of the proposed changes to appropriations for:

(A) the Legislative Department as certified to the governor by the president of the Senate and the speaker of the House;

(B) the Executive Department;

(C) the Judicial Department as certified to the governor by the state court administrator;

(D) changes to salaries payable by the state under the Utah Constitution or under law for lease agreements planned for the next fiscal year; and

(E) all other changes to ongoing or one-time appropriations, including dedicated credits, restricted funds, nonlapsing balances, grants, and federal funds;

(v) for each line item, the average annual dollar amount of staff funding associated with all positions that were vacant during the last fiscal year;

(vi) deficits or anticipated deficits;

(vii) the recommendations for each state agency for new full-time employees for the next fiscal year, which shall also be provided to the State Building Board as required by Subsection 63A-5-103(2);

(viii) any explanation that the governor may desire to make as to the important features of the budget and any suggestion as to methods for the reduction of expenditures or increase of the state's revenue; and

(ix) information detailing certain fee increases as required by Section 63J-1-504.

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(3) For the purpose of preparing and reporting the proposed budget:

(a) The governor shall require the proper state officials, including all public and higher education officials, all heads of executive and administrative departments and state institutions, bureaus, boards, commissions, and agencies expending or supervising the expenditure of the state money, and all institutions applying for state money and appropriations, to provide itemized estimates of changes in revenues and appropriations.

(b) The governor may require the persons and entities subject to Subsection (3)(a) to provide other information under these guidelines and at times as the governor may direct, which may include a requirement for program productivity and performance measures, where appropriate, with emphasis on outcome indicators.

(c) The governor may require representatives of public and higher education, state departments and institutions, and other institutions or individuals applying for state appropriations to attend budget meetings.

(4) In submitting the budgets for the Departments of Health and Human Services and the Office of the Attorney General, the governor shall consider a separate recommendation in the governor's budget for changes in funds to be contracted to:

(a) local mental health authorities under Section 62A-15-110;

(b) local substance abuse authorities under Section 62A-15-110;

(c) area agencies under Section 62A-3-104.2;

(d) programs administered directly by and for operation of the Divisions of Substance Abuse and Mental Health and Aging and Adult Services;

(e) local health departments under Title 26A, Chapter 1, Local Health Departments;
and

(f) counties for the operation of Children's Justice Centers under Section 67-5b-102.

(5) (a) In making budget recommendations, the governor shall consider an amount sufficient to grant the following entities the same percentage increase for wages and benefits that the governor includes in the governor's budget for persons employed by the state:

(i) local health departments, local mental health authorities, local substance abuse authorities, and area agencies;

(ii) local conservation districts and Utah Association of Conservation District employees, as related to the budget for the Department of Agriculture; and

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(iii) employees of corporations that provide direct services under contract with:

(A) the Utah State Office of Rehabilitation and the Division of Services for People with Disabilities;

(B) the Division of Child and Family Services; and

(C) the Division of Juvenile Justice Services within the Department of Human Services.

(b) If the governor does not include in the governor's budget an amount sufficient to grant an increase for any entity described in Subsection (5)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(6) (a) The Families, Agencies, and Communities Together Council may propose a budget recommendation to the governor for collaborative service delivery systems operated under Section 63M-9-402, as provided under Subsection 63M-9-201(4)(e).

(b) The Legislature may, through a specific program schedule, designate funds appropriated for collaborative service delivery systems operated under Section 63M-9-402.

(7) The governor shall include in the governor's budget the state's portion of the budget for the Utah Communications Agency Network established in Title 63C, Chapter 7, Utah Communications Agency Network Act.

(8) (a) The governor shall include a separate recommendation in the governor's budget for funds to maintain the operation and administration of the Utah Comprehensive Health Insurance Pool. In making the recommendation, the governor may consider:

(i) actuarial analysis of growth or decline in enrollment projected over a period of at least three years;

(ii) actuarial analysis of the medical and pharmacy claims costs projected over a period of at least three years;

(iii) the annual Medical Care Consumer Price Index;

(iv) the annual base budget for the pool established by the [~~Commerce and Revenue~~] Business, Economic Development, and Labor Appropriations Subcommittee for each fiscal year;

(v) the growth or decline in insurance premium taxes and fees collected by the State Tax Commission and the Insurance Department; and

(vi) the availability of surplus General Fund revenue under Section 63J-1-312 and

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Subsection 59-14-204(5)(b).

(b) In considering the factors in Subsections (8)(a)(i), (ii), and (iii), the governor may consider the actuarial data and projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it develops the governor's financial statements and projections for each fiscal year.

(9) (a) In submitting the budget for the Department of Public Safety, the governor shall include a separate recommendation in the governor's budget for maintaining a sufficient number of alcohol-related law enforcement officers to maintain the enforcement ratio equal to or below the number specified in Subsection 32B-1-201(2).

(b) If the governor does not include in the governor's budget an amount sufficient to maintain the number of alcohol-related law enforcement officers described in Subsection (9)(a), the governor shall include a message to the Legislature regarding the governor's reason for not including that amount.

(10) (a) The governor may revise all estimates, except those relating to the Legislative Department, the Judicial Department, and those providing for the payment of principal and interest to the state debt and for the salaries and expenditures specified by the Utah Constitution or under the laws of the state.

(b) The estimate for the Judicial Department, as certified by the state court administrator, shall also be included in the budget without revision, but the governor may make separate recommendations on the estimate.

(11) The total appropriations requested for expenditures authorized by the budget may not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing fiscal year.

(12) If any item of the budget as enacted is held invalid upon any ground, the invalidity does not affect the budget itself or any other item in it.

Section 30. Section 63J-1-201.7 is amended to read:

63J-1-201.7. Legislative budget considerations -- Wage increases for certain entities -- Comprehensive health insurance pool.

(1) In adopting a budget for each fiscal year, the Legislature shall consider an amount sufficient to grant local health departments, local mental health authorities, local substance abuse authorities, area agencies on aging, conservation districts, and Utah Association of

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Conservation District employees the same percentage increase for wages and benefits that is included in the budget for persons employed by the state.

(2) (a) In adopting a budget each year for the Utah Comprehensive Health Insurance Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each fiscal year.

(b) When making a determination under this Subsection (2), the Legislature shall consider factors it determines are appropriate, which may include:

(i) actuarial analysis of growth or decline in enrollment projected over a period of at least three years;

(ii) actuarial analysis of the medical and pharmacy claims costs projected over a period of at least three years;

(iii) the annual Medical Care Consumer Price Index;

(iv) the annual base budget for the pool established by the [~~Commerce and Revenue~~] Business, Economic Development, and Labor Appropriations Subcommittee for each fiscal year;

(v) the growth or decline in insurance premium taxes and fees collected by the tax commission and the insurance department from the previous fiscal year; and

(vi) the availability of surplus General Fund revenue under Section 63J-1-312 and Subsection 59-14-204(5)(b).

(c) In considering the factors in Subsections (2)(b)(i), (ii), and (iii), the Legislature may consider the actuarial data and projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it develops its financial statements and projections for each fiscal year.

(d) The funds appropriated by the Legislature to fund the Utah Comprehensive Health Insurance Pool as determined under this Subsection (2):

(i) shall be deposited into the fund established by Section 31A-29-120; and

(ii) are restricted and are to be used to maintain the operation, administration, and management of the Utah Comprehensive Health Insurance Pool created by Section 31A-29-104.

Section 31. Section 63M-1-1206 is amended to read:

63M-1-1206. Board duties and powers.

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(1) The board shall:

(a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board, provided that a contingent tax credit may not be issued unless the Utah fund of funds:

(i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and

(ii) agrees to repay the loan upon terms and conditions established by the board;

(b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:

(i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and

(ii) the returns from the Utah fund of funds;

(c) establish criteria and procedures for registering and redeeming contingent tax credits by designated investors holding certificates issued by the board;

(d) establish a target rate of return or range of returns on venture capital investments of the Utah fund of funds;

(e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:

(i) entering into commitments with designated purchasers; and

(ii) drawing on commitments to redeem certificates from designated investors;

(f) have power to:

(i) expend funds;

(ii) invest funds;

(iii) issue debt and borrow funds;

(iv) enter into contracts;

(v) insure against loss; and

(vi) perform any other act necessary to carry out its purpose; and

(g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(2) (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee;

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(i) whenever made, modified, or repealed; and

(ii) in each even-numbered year.

(b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.

(3) (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall:

(i) include the contingencies that must be met for a certificate and its related tax credits to be:

(A) issued by the board;

(B) transferred by a designated investor; and

(C) redeemed by a designated investor in order to receive a contingent tax credit; and

(ii) tie the contingencies for redemption of certificates to:

(A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and

(B) the scheduled principal and interest payments payable to designated investors that have made loans or other debt obligations to the Utah fund of funds.

(b) The board may not issue contingent tax credits under this part prior to July 1, 2004.

(4) (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.

(b) The fee shall:

(i) be charged only to pay for reasonable and necessary costs of the board; and

(ii) not exceed .5% of the private investment of the designated investor.

(5) The board's criteria and procedures for redeeming certificates:

(a) shall give priority to the redemption amount from the available funds in the redemption reserve; and

(b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:

(i) by certifying a contingent tax credit to the designated investor; or

(ii) by making demand on designated purchasers consistent with the requirements of Section 63M-1-1221.

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(6) (a) The board shall, in consultation with the corporation, publish an annual report of the activities conducted by the Utah fund of funds, and submit the report to the governor and the Business, Economic Development [and Revenue], and Labor Appropriations Subcommittee.

(b) The annual report shall:

(i) include a copy of the audit of the Utah fund of funds and a valuation of the assets of the Utah fund of funds;

(ii) review the progress of the investment fund allocation manager in implementing its investment plan; and

(iii) describe any redemption or transfer of a certificate issued under this part.

(c) The annual report may not identify any specific designated investor who has redeemed or transferred a certificate.

(d) (i) Beginning July 1, 2006, and thereafter every two years, the board shall publish a progress report which shall evaluate the progress of the state in accomplishing the purposes stated in Section 63M-1-1202.

(ii) The board shall give a copy of the report to the Legislature.

Section 32. Section 63M-1-1404 is amended to read:

63M-1-1404. Powers and duties of office related to tourism development plan --

Annual report and survey.

(1) The office shall:

(a) be the tourism development authority of the state;

(b) develop a tourism advertising, marketing, and branding program for the state;

(c) receive approval from the Board of Tourism Development under Subsection 63M-1-1403(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;

(d) develop a plan to increase the economic contribution by tourists visiting the state;

(e) plan and conduct a program of information, advertising, and publicity relating to the recreational, scenic, historic, and tourist advantages and attractions of the state at large; and

(f) encourage and assist in the coordination of the activities of persons, firms, associations, corporations, travel regions, counties, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the

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state.

(2) Any plan provided for under Subsection (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

(3) The office shall conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy and to provide an annual evaluation of the economic efficiency of the advertising and branding campaigns conducted under this part to the Legislature's Workforce Services and Community and Economic Development Interim Committee and the Business, Economic Development [and Human Resources], and Labor Appropriations Subcommittee.

Section 33. Section 63M-1-1901 is amended to read:

63M-1-1901. Military installation projects for economic development -- Funding -- Criteria -- Dispersal -- Report.

(1) The Legislature recognizes that significant growth in the state's economy can be achieved by state and local support of the continuing expansion and development of federal military installations throughout the state.

(2) The office, through its director, may receive and distribute legislative appropriations and public and private grants and donations for military installation projects that:

(a) have a strong probability of increasing the growth and development of a military facility within the state, thereby providing significant economic benefits to the state;

(b) will provide a significant number of new jobs within the state that should remain within the state for a period of several years; and

(c) involve a partnership between the military and private industry or local government or the military and private industry and local government.

(3) (a) The director may distribute money under this section to:

(i) a regional or statewide nonprofit economic development organization; or

(ii) a federal military partnership that has the mission of promoting the economic growth of a military installation.

(b) The director shall make a distribution under this section upon:

(i) receipt of an application on a form prescribed by the office that lists:

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(A) the particulars of the proposed use of the money requested, such as needed equipment purchases and anticipated training costs;

(B) the estimated number of new jobs that will be created by the proposed project;

(C) pending contracts related to the project that are to be finalized from funding anticipated under this section; and

(D) a projected date on which the applicant shall provide the director with a report on the implementation and performance of the project, including the creation of new jobs; and

(ii) a determination by the director that the project satisfies the requirements listed in Subsection (2).

(c) (i) The office shall monitor the activities of a recipient of money under this section to ensure that there is compliance with the terms and conditions imposed on the recipient under this part.

(ii) The office shall submit an annual report to the Workforce Services and Community and Economic Development Interim Committee and the Business, Economic Development [and Revenue], and Labor Appropriations Subcommittee on the use and impact of the money distributed under this section, with the first report to occur not later than September 1, 2005.

Section 34. Section 63M-2-302 is amended to read:

63M-2-302. Governing authority powers.

(1) The governing authority shall:

(a) ensure that funds appropriated and received for research and development at the research universities and for the technology outreach program are used appropriately, effectively, and efficiently in accordance with the intent of the Legislature;

(b) in cooperation with the universities' administrations, expand key research at the two research universities;

(c) enhance technology transfer and commercialization of research and technologies developed at the research universities to create high-quality jobs and new industries in the private sector in Utah;

(d) review state and local economic development plans and appropriations to ensure that the project and appropriations do not duplicate existing or planned programs;

(e) establish economic development objectives for the project;

(f) by following the procedures and requirements of Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act, make rules for allocating money appropriated to it for research teams and for the commercialization of new technology between Utah State University and the University of Utah;

(g) verify that the project is being enhanced by research grants and that it is meeting the governing authority's economic development objectives;

(h) monitor all research plans that are part of the project at the research universities to determine that appropriations are being spent in accordance with legislative intent and to maximize the benefit and return to the state;

(i) develop methods and incentives to encourage investment in and contributions to the project from the private sector; and

(j) annually report and make recommendations to:

(i) the governor; and

(ii) the Business, Economic Development [and Revenue], and Labor Appropriations Subcommittee.

(2) The governing authority may:

(a) in addition to money received by it from the Legislature, receive contributions from any source in the form of money, property, labor, or other things of value for the project;

(b) subject to any restrictions imposed by the donation, appropriations, or bond authorizations, allocate money received by it among the research universities, technology outreach program, and technology transfer offices to support commercialization and technology transfer to the private sector; or

(c) enter into agreements necessary to obtain private equity investment in the project.

(3) All money appropriated to the governing authority is nonlapsing.

(4) The governing authority shall report to the Business, Economic Development [and Revenue], and Labor Appropriations Subcommittee and to the Legislative Executive Appropriations Committee by November 1 of each year on its activities, including:

(a) the achievement of the objectives and duties provided under this part;

(b) its annual expenditure of funds; and

(c) nonlapsing balances retained by the governing authority.

Section 35. Section 73-30-202 is amended to read:

73-30-202. Duties of the council.

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(1) (a) The council shall advise the persons listed in Subsection (1)(b) on the sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

(i) sustainable use;

(ii) environmental health; and

(iii) reasonable access for existing and future development.

(b) The council shall advise, as provided in Subsection (1)(a):

(i) the governor;

(ii) the Department of Natural Resources; and

(iii) the Department of Environmental Quality.

(2) The council shall assist the Division of Forestry, Fire, and State Lands in its responsibilities for the Great Salt Lake described in Section 65A-10-8.

(3) The council:

(a) may recommend appointments to the Great Salt Lake technical team created by the Division of Forestry, Fire, and State Lands; and

(b) shall receive and utilize technical support from the Great Salt Lake technical team.

(4) The council shall assist the Department of Natural Resources, the Department of Environmental Quality, and their applicable boards in accomplishing their responsibilities for the Great Salt Lake.

(5) The council shall report annually to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee on the council's activities.