

# HB0325S01 compared with HB0325

~~deleted text~~ shows text that was in HB0325 but was deleted in HB0325S01.

inserted text shows text that was not in HB0325 but was inserted into HB0325S01.

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Representative Norman K Thurston proposes the following substitute bill:

## OFFICE OF REHABILITATION SERVICES AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Norman K Thurston**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill modifies the State Office of Rehabilitation Act and related provisions.

#### Highlighted Provisions:

This bill:

- ▶ moves the Utah State Office of Rehabilitation from the State Board of Education to the Department of Workforce Services;
- ▶ consolidates the functions of the Division of Disability Determination Services, the Division of Rehabilitation Services, the Division of Services for the Blind and Visually Impaired, and the Division of Services to the Deaf and Hard of Hearing within the Utah State Office of Rehabilitation;
- ▶ requires the Department of Workforce Services to create a written transition plan;
- ▶ creates an Office of Rehabilitation Transition Restricted Account; and

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- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

~~{None}~~ This bill appropriates:

- ▶ To the Department of Workforce Services -- Utah State Office of Rehabilitation, as an ongoing appropriation:
  - from General Fund Restricted -- Office of Rehabilitation Transition Restricted Account, \$26,385,100;
  - from Federal Funds, \$62,656,000;
  - from Dedicated Credits Revenue, \$985,600.
- ▶ To State Board of Education -- Utah State Office of Rehabilitation, as a one-time appropriation:
  - from General Fund Restricted -- Office of Rehabilitation Transition Restricted Account, \$26,385,100.
- ▶ To General Fund Restricted -- Office of Rehabilitation Transition Restricted Account, as a one-time appropriation:
  - from General Fund, \$21,385,100;
  - from Beginning Nonlapsing Appropriation Balances, \$5,000,000.

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

- 20A-14-103, as last amended by Laws of Utah 2011, Third Special Session, Chapter 3
- 34A-2-413.5, as enacted by Laws of Utah 2014, Chapter 286
- 35A-1-202, as last amended by Laws of Utah 2012, Chapter 212
- 35A-1-206, as last amended by Laws of Utah 2014, Chapters 371 and 387
- 53A-1-403.5, as last amended by Laws of Utah 2012, Chapter 23
- 53A-1a-501.7, as last amended by Laws of Utah 2008, Chapter 319
- 53A-11-203, as last amended by Laws of Utah 2015, Chapter 126
- ~~{~~ ~~53A-26a-201, as enacted by Laws of Utah 1994, Chapter 306~~
- † 54-8b-10, as last amended by Laws of Utah 2012, Chapter 347
- 55-5-2, as last amended by Laws of Utah 2011, Chapter 297

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**55-5-7**, as last amended by Laws of Utah 1997, Chapter 10

**55-5-8**, as last amended by Laws of Utah 1996, Chapter 37

**55-5a-2**, as last amended by Laws of Utah 1996, Chapter 37

**55-5a-3**, as last amended by Laws of Utah 1996, Chapter 37

**55-5a-4**, as last amended by Laws of Utah 1979, Chapter 191

**55-5a-5**, as last amended by Laws of Utah 1979, Chapter 191

**62A-5a-102**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8

**62A-5a-103**, as last amended by Laws of Utah 2010, Chapter 286

**62A-5a-105**, as last amended by Laws of Utah 1996, Chapter 179

**63B-19-201**, as enacted by Laws of Utah 2010, Chapter 100

**63G-6a-805**, as last amended by Laws of Utah 2013, Chapter 445

**63I-2-253**, as last amended by Laws of Utah 2015, Chapters 258, 418, and 456

**63J-1-601**, as last amended by Laws of Utah 2015, Chapter 239

**63J-1-602.3**, as last amended by Laws of Utah 2014, Chapters 189 and 304

**78B-1-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3

**78B-1-206**, as renumbered and amended by Laws of Utah 2008, Chapter 3

**78B-1-208**, as renumbered and amended by Laws of Utah 2008, Chapter 3

### ENACTS:

**35A-13-201**, Utah Code Annotated 1953

**35A-13-301**, Utah Code Annotated 1953

**35A-13-401**, Utah Code Annotated 1953

**35A-13-501**, Utah Code Annotated 1953

**53A-24-601**, Utah Code Annotated 1953

**53A-24-602**, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

**35A-13-101**, (Renumbered from 53A-24-101, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

**35A-13-102**, (Renumbered from 53A-24-102, as last amended by Laws of Utah 2001, First Special Session, Chapter 5)

**35A-13-103**, (Renumbered from 53A-24-103, as last amended by Laws of Utah 2001, First Special Session, Chapter 5)

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**35A-13-104**, (Renumbered from 53A-24-104, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

**35A-13-105**, (Renumbered from 53A-24-106, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

**35A-13-106**, (Renumbered from 53A-24-107, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

**35A-13-107**, (Renumbered from 53A-24-108, as repealed and reenacted by Laws of Utah 1988, Chapter 83)

**35A-13-108**, (Renumbered from 53A-24-109, as last amended by Laws of Utah 1996, Chapter 37)

**35A-13-109**, (Renumbered from 53A-24-110, as last amended by Laws of Utah 1996, Chapter 37)

**35A-13-202**, (Renumbered from 53A-24-105, as last amended by Laws of Utah 2011, Chapter 303)

**35A-13-203**, (Renumbered from 53A-24-106.5, as enacted by Laws of Utah 2011, Chapter 169)

**35A-13-302**, (Renumbered from 53A-24-114, as last amended by Laws of Utah 2008, Chapter 382)

**35A-13-303**, (Renumbered from 53A-24-205, as last amended by Laws of Utah 1996, Chapter 37)

**35A-13-402**, (Renumbered from 53A-24-304, as last amended by Laws of Utah 1996, Chapter 37)

**35A-13-403**, (Renumbered from 53A-24-305, as last amended by Laws of Utah 1996, Chapter 37)

**35A-13-502**, (Renumbered from 53A-24-404, as last amended by Laws of Utah 1990, Chapter 78)

**35A-13-503**, (Renumbered from 53A-24-405, as last amended by Laws of Utah 1990, Chapter 78)

**35A-13-601**, (**Renumbered from 53A-26a-101, as enacted by Laws of Utah 1994,**  
**Chapter 306**)

**35A-13-602**, (**Renumbered from 53A-26a-102, as last amended by Laws of Utah 2013,**

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### Chapter 385

35A-13-603, (Renumbered from 53A-26a-201, as enacted by Laws of Utah 1994,

### Chapter 306

35A-13-604, (Renumbered from 53A-26a-202, as enacted by Laws of Utah 1994,

### Chapter 306

35A-13-605, (Renumbered from 53A-26a-301, as last amended by Laws of Utah 2013,

### Chapter 385

35A-13-606, (Renumbered from 53A-26a-302, as last amended by Laws of Utah 2009,

### Chapter 183

35A-13-607, (Renumbered from 53A-26a-303, as enacted by Laws of Utah 1994,

### Chapter 306

35A-13-608, (Renumbered from 53A-26a-304, as enacted by Laws of Utah 1994,

### Chapter 306

35A-13-609, (Renumbered from 53A-26a-305, as last amended by Laws of Utah 2013,

### Chapter 385

35A-13-610, (Renumbered from 53A-26a-401, as enacted by Laws of Utah 1994,

### Chapter 306

35A-13-611, (Renumbered from 53A-26a-501, as enacted by Laws of Utah 1994,

### Chapter 306

35A-13-612, (Renumbered from 53A-26a-502, as enacted by Laws of Utah 1994,

### Chapter 306

35A-13-613, (Renumbered from 53A-26a-503, as enacted by Laws of Utah 1994,

### Chapter 306

#### REPEALS:

53A-15-205, as last amended by Laws of Utah 2013, Chapter 167

53A-24-110.5, as last amended by Laws of Utah 1998, Chapter 403

53A-24-110.7, as last amended by Laws of Utah 2001, Chapter 328

53A-24-201, as enacted by Laws of Utah 1988, Chapter 83

53A-24-202, as enacted by Laws of Utah 1988, Chapter 83

53A-24-203, as enacted by Laws of Utah 1988, Chapter 83

53A-24-204, as last amended by Laws of Utah 1996, Chapter 37

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53A-24-301, as last amended by Laws of Utah 1996, Chapter 37

53A-24-302, as last amended by Laws of Utah 1996, Chapter 37

53A-24-303, as last amended by Laws of Utah 1996, Chapter 37

53A-24-401, as enacted by Laws of Utah 1988, Chapter 83

53A-24-402, as last amended by Laws of Utah 1990, Chapter 78

53A-24-403, as last amended by Laws of Utah 1990, Chapter 78

53A-24-501, as enacted by Laws of Utah 1988, Chapter 83

53A-24-502, as last amended by Laws of Utah 1993, Chapter 4

53A-24-503, as last amended by Laws of Utah 1993, Chapter 4

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

Section 1. Section **20A-14-103** is amended to read:

**20A-14-103. State Board of Education members -- When elected -- Qualifications -- Avoiding conflicts of interest.**

(1) (a) Unless otherwise provided by law, each State Board of Education member elected from a State Board of Education District at the 2010 general election shall:

- (i) serve out the term of office for which that member was elected; and
- (ii) represent the realigned district if the member resides in that district.

(b) At the general election to be held in 2012, a State Board of Education member elected from State Board of Education Districts 4, 7, 8, 10, 11, 12, 13, and 15 shall be elected to serve a term of office of four years.

(c) In order to ensure that the terms of approximately half of the State Board of Education members expire every two years:

(i) at the general election to be held in 2012, the State Board of Education member elected from State Board of Education District 1 shall be elected to serve a term of office of two years; and

(ii) at the general election to be held in 2014, the State Board of Education member elected from State Board of Education District 1 shall be elected to serve a term of office of four years.

(2) (a) A person seeking election to the State Board of Education shall have been a resident of the State Board of Education district in which the person is seeking election for at

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least one year as of the date of the election.

(b) A person who has resided within the State Board of Education district, as the boundaries of the district exist on the date of the election, for one year immediately preceding the date of the election shall be considered to have met the requirements of this Subsection (2).

(3) A State Board of Education member shall:

(a) be and remain a registered voter in the State Board of Education district from which the member was elected or appointed; and

(b) maintain the member's primary residence within the State Board of Education district from which the member was elected or appointed during the member's term of office.

(4) A State Board of Education member may not, during the member's term of office, also serve as an employee of:

(a) the State Board of Education; or

(b) the Utah State Office of Education[~~;~~or].

~~[(c) the Utah State Office of Rehabilitation.]~~

Section 2. Section **34A-2-413.5** is amended to read:

### **34A-2-413.5. Injured worker reemployment.**

(1) As used in this section:

(a) (i) "Gainful employment" means employment that:

(A) is reasonably attainable in view of an industrial injury or occupational disease; and

(B) offers to an injured worker, as reasonably feasible, an opportunity for earnings.

(ii) Factors considered in determining gainful employment include an injured worker's:

(A) education;

(B) experience; and

(C) physical and mental impairment and condition.

(b) "Initial written report" means a report described in Subsection (5).

(c) "Injured worker" means an employee who sustains an industrial injury or occupational disease for which benefits are provided under this chapter or Chapter 3, Utah Occupational Disease Act.

(d) "Injured worker with a disability" means an injured worker who:

(i) because of the injury or disease that is the basis of the employee being an injured worker:

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(A) is or will be unable to return to work in the injured worker's usual and customary occupation; or

(B) is unable to perform work for which the injured worker has previous training and experience; and

(ii) reasonably can be expected to attain gainful employment after an evaluation provided for in accordance with this section.

(e) "Parties" means:

(i) an injured worker with a disability;

(ii) the employer of the injured worker with a disability;

(iii) the employer's workers' compensation insurance carrier; and

(iv) a rehabilitation or reemployment professional for the employer or the employer's workers' compensation insurance carrier.

(f) "Reemployment plan" means a written:

(i) description or rationale for the manner and means by which it is proposed an injured worker with a disability may return to gainful employment; and

(ii) definition of the voluntary responsibilities of:

(A) the injured worker with a disability;

(B) the employer; and

(C) one or more other parties involved with the implementation of the reemployment plan.

(2) (a) This section applies only to an industrial injury or occupational disease that occurs on or after July 1, 1990.

(b) This section is intended to promote and monitor the state's and the employer's capacity to assist the injured worker in returning to the workforce by evaluating the effectiveness of the voluntary efforts of employers under this section.

(3) This section does not affect the duties of the Utah State Office of Rehabilitation created in Section 35A-1-202.

(4) The commission may provide for the administration of this section by rule in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(5) An employer or the employer's workers' compensation insurance carrier may voluntarily prepare an initial written report assessing an injured worker's need or lack of need



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for vocational assistance in reemployment if:

- (a) it appears that the injured worker is or will be an injured worker with a disability; or
- (b) the period of the injured worker's temporary total disability compensation period

exceeds 90 days.

(6) (a) Subject to Subsection (6)(b), an employer or the employer's workers' compensation insurance carrier may serve the initial written report, if one has been prepared, on the injured worker.

(b) If an employer or the employer's workers' compensation insurance carrier serves an initial written report on an injured worker, the employer or the employer's workers' compensation insurance carrier shall comply with Subsection (6)(a) by no later than 30 days after the earlier of the day on which:

- (i) it appears that the injured worker is or will be an injured worker with a disability; or
- (ii) the 90-day period described in Subsection (5)(b) ends.

(7) With the initial written report, if one is prepared and used in the determination process, an employer or the employer's workers' compensation insurance carrier shall provide an injured worker information regarding reemployment.

(8) Subject to the other provisions of this section, if an injured worker is an injured worker with a disability, the employer or the employer's workers' compensation insurance carrier may, within 10 days after the day on which the employer or workers' compensation insurance carrier serves the initial written report on the injured worker, refer the injured worker with a disability to:

- (a) the Utah State Office of Rehabilitation; or
- (b) at the employer's or workers' compensation insurance carrier's option, a private

rehabilitation or reemployment service.

(9) An employer or the employer's workers' compensation insurance carrier shall make the referral required by Subsection (8) for the purpose of:

- (a) providing an evaluation; and
- (b) developing a reemployment plan.

(10) The objective of reemployment is to return an injured worker with a disability to gainful employment in the following order of employment priority:

- (a) same job, same employer;

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- (b) modified job, same employer;
- (c) same job, new employer;
- (d) modified job, new employer;
- (e) new job, new employer; or
- (f) retraining in a new occupation.

(11) Nothing in this section or its application is intended to:

- (a) modify or in any way affect an existing employee-employer relationship; or
- (b) provide an employee with a guarantee or right to employment or continued

employment with an employer.

(12) A rehabilitation counselor to whom a referral is made under Subsection (8) shall have the same or comparable qualifications as those established by the Utah State Office of Rehabilitation for personnel assigned to rehabilitation and evaluation duties.

Section 3. Section **35A-1-202** is amended to read:

**35A-1-202. Divisions -- Creation -- Duties -- Workforce Appeals Board, councils, Child Care Advisory Committee, and economic service areas.**

(1) There is created within the department the following divisions:

(a) the Employment Development Division to administer the development and implementation of employment assistance programs that are:

- (i) related to the operations of the department; and
- (ii) consistent with federal and state law;
- (b) to administer those services that are not delivered through the economic service

areas:

- (i) the Workforce Development and Information Division; and
- (ii) the Unemployment Insurance Division;
- (c) the Division of Adjudication to adjudicate claims or actions in accordance with this

title; ~~and~~

(d) the Housing and Community Development Division, which is described in Sections 35A-8-201 and 35A-8-202~~[-]; and~~

(e) the Utah State Office of Rehabilitation, which is described in Section 35A-13-103.

(2) In addition to the divisions created under Subsection (1), within the department are the following:

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- (a) the Workforce Appeals Board created in Section 35A-1-205;
- (b) the State Council on Workforce Services created in Section 35A-1-206;
- (c) the Employment Advisory Council created in Section 35A-4-502;
- (d) the Child Care Advisory Committee created in Section 35A-3-205; and
- (e) the economic service areas created in accordance with Chapter 2, Economic Service Areas.

Section 4. Section **35A-1-206** is amended to read:

**35A-1-206. State Council on Workforce Services -- Appointment -- Membership -- Terms of members -- Compensation.**

- (1) There is created a State Council on Workforce Services that shall:
  - (a) perform the activities described in Subsection (8);
  - (b) advise on issues requested by the department and the Legislature; and
  - (c) make recommendations to the department regarding:
    - (i) the implementation of Chapter 2, Economic Service Areas, Chapter 3, Employment Support Act, and Chapter 5, Training and Workforce Improvement Act; and
    - (ii) the coordination of apprenticeship training.
- (2) (a) The council shall consist of the following voting members:
  - (i) a private sector representative from each economic service area as designated by the economic service area director;
  - (ii) the superintendent of public instruction or the superintendent's designee;
  - (iii) the commissioner of higher education or the commissioner's designee; and
  - (iv) the following members appointed by the governor in consultation with the executive director:
    - (A) four representatives of small employers as defined by rule by the department;
    - (B) four representatives of large employers as defined by rule by the department;
    - (C) four representatives of employees or employee organizations, including at least one representative from nominees suggested by public employees organizations;
    - (D) two representatives of the clients served under this title including community-based organizations;
    - (E) a representative of veterans in the state;
    - (F) the [~~executive~~] director of the Utah State Office of Rehabilitation; and

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(G) the Applied Technology College president.

(b) The following shall serve as nonvoting ex officio members of the council:

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

(ii) a legislator appointed by the governor from nominations of the speaker of the House of Representatives and president of the Senate;

(iii) the executive director of the Department of Human Services;

(iv) the director of the Governor's Office of Economic Development or the director's designee; and

(v) the executive director of the Department of Health.

(3) (a) The governor shall appoint one nongovernmental member from the council as the chair of the council.

(b) The chair shall serve at the pleasure of the governor.

(4) (a) A member appointed by the governor shall serve a term of four years and may be reappointed to one additional term.

(b) A member shall continue to serve until the member's successor has been appointed and qualified.

(c) Except as provided in Subsection (4)(d), as terms of council members expire, the governor shall appoint each new member or reappointed member to a four-year term.

(d) Notwithstanding the requirements of Subsection (4)(c), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of council members are staggered so that approximately one half of the council is appointed every two years.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(5) A majority of the voting members constitutes a quorum for the transaction of business.

(6) (a) A member who is not a legislator may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses as allowed in:

(i) Section 63A-3-106;

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

(iii) rules made by the Division of Finance according to Sections 63A-3-106 and

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63A-3-107.

(b) Compensation and expenses of a member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(7) The department shall provide staff and administrative support to the council at the direction of the executive director.

(8) The council shall:

(a) develop a state workforce services plan in accordance with Section 35A-1-207;

(b) review economic service area plans to certify consistency with state policy guidelines;

(c) improve the understanding and visibility of state workforce services efforts through external and internal marketing strategies;

(d) include in the annual written report described in Section 35A-1-109, information and accomplishments related to the activities of the department;

(e) issue other studies, reports, or documents the council considers advisable that are not required under Subsection (8)(d);

(f) coordinate the planning and delivery of workforce development services with public education, higher education, vocational rehabilitation, and human services; and

(g) perform other responsibilities within the scope of workforce services as requested by:

(i) the Legislature;

(ii) the governor; or

(iii) the executive director.

Section 5. Section **35A-13-101**, which is renumbered from Section 53A-24-101 is renumbered and amended to read:

### CHAPTER 13. UTAH STATE OFFICE OF REHABILITATION ACT

#### Part 1. General Provisions

~~[53A-24-101].~~      35A-13-101. Title.

(1) This chapter is known as the "Utah State Office of Rehabilitation Act."

(2) This part is known as "General Provisions."

Section 6. Section **35A-13-102**, which is renumbered from Section 53A-24-102 is renumbered and amended to read:

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~~[53A-24-102].~~ 35A-13-102. Definitions.

As used in this chapter:

~~[(1) "Board" means the State Board of Education. (2) "DDDS" means the Division of Disability Determination Services. (3)]~~

(1) "Blind" means an individual:

(a) whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses; or

(b) whose visual acuity is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends to an angle of no greater than 20 degrees.

(2) "Deaf" means an individual with a diagnosed auditory deficit that renders the individual unable to comprehend spoken language through audition only, even with medical intervention or amplification, and that results in functional limitations in one or more areas of daily living.

(3) "Director" means the director of the Utah State Office of Rehabilitation.

(4) "Disability" means a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in materially limiting an individual's activities or functioning.

~~[(4) "DRS" means the Division of Rehabilitation Services. (5) "DSBVI" means the Division of Services for the Blind and Visually Impaired. (6) "DSDHH" means the Division of Services to the Deaf and Hard of Hearing. (7)]~~

(5) "Eligible individual" means an individual determined to be eligible to receive services under laws or rules governing eligibility for the program in question.

~~[(8) "Executive director" means the executive director of the Utah State Office of Rehabilitation.]~~

(6) "~~{Hearing impaired}~~ **Hard of hearing**" means an individual with a diagnosed auditory deficit ranging from mild to profound that results in functional limitations in one or more areas of daily living.

~~[(9) (7) "Independent living rehabilitation services" means goods and services reasonably necessary to enable an individual with a severe disability to maintain or increase functional independence.~~

(8) "Office" means the Utah State Office of Rehabilitation created in Section

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35A-1-202.

(9) "Visually impaired" means an individual with a diagnosed impairment of visual function that if not corrected constitutes a material limitation to normal activities or functioning.

~~[(10) "Office" means the Utah State Office of Rehabilitation.]~~

~~[(11)]~~ (10) "Vocational rehabilitation services" means goods and services reasonably necessary to enable an individual with a disability to obtain and retain employment.

Section 7. Section **35A-13-103**, which is renumbered from Section 53A-24-103 is renumbered and amended to read:

~~[53A-24-103].~~      **35A-13-103. Office authority.**

(1) ~~[There is created the Utah State Office of Rehabilitation]~~ The Utah State Office of Rehabilitation created in Section 35A-1-202 is under the [policy] direction of the [State Board of Education] department and under the direction and general supervision of the [superintendent of public instruction] executive director.

(2) The ~~[board]~~ department is the sole state agency designated ~~to~~ to administer the state plans for vocational rehabilitation and independent living rehabilitation programs ~~{, }, {, } and~~ {, }, {, } and ~~(b) to determine eligibility for provided services under this chapter.~~

(3) The office is the state unit designated to carry out the state plans and other duties assigned by law or the ~~[board]~~ department.

Section 8. Section **35A-13-104**, which is renumbered from Section 53A-24-104 is renumbered and amended to read:

~~[53A-24-104].~~      **35A-13-104. Appointment of director -- Administration of the office.**

(1) The executive ~~[officer of the board]~~ director of the department shall appoint the ~~[executive]~~ director of the ~~[office with the approval of the board]~~ office.

(2) The ~~[executive]~~ director shall administer the office in accordance with the direction of the executive ~~[officer of the board, policies of the board,]~~ director and applicable state and federal laws and regulations.

Section 9. Section **35A-13-105**, which is renumbered from Section 53A-24-106 is renumbered and amended to read:

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~~[53A-24-106].~~      35A-13-105.    **Public funding of vocational rehabilitation and independent living rehabilitation services.**

(1) Public funding of vocational rehabilitation and independent living rehabilitation services provided under this chapter may only be provided to eligible individuals who are found to require financial assistance with respect to those services.

(2) The ~~[executive]~~ director ~~[may]~~ shall, ~~with the approval of the executive director,~~ establish priorities for use in determining services to be provided to eligible individuals under this chapter if the demand for services exceeds available funds.

(3) Rights established under this chapter are not transferable or assignable.

Section 10. Section **35A-13-106**, which is renumbered from Section 53A-24-107 is renumbered and amended to read:

~~[53A-24-107].~~      35A-13-106.    **Personally identifiable information -- Nondisclosure -- Penalty.**

(1) Personally identifiable information obtained by the office, its employees, or agents concerning individuals applying for or receiving services under this chapter may not be disclosed without the prior written consent of the individual or the individual's legal representative, except as required for administration of programs or services under this chapter, or as otherwise authorized by law.

(2) Unauthorized disclosure of personally identifiable information obtained under this chapter, or use of such information for unauthorized purposes, is a class B misdemeanor.

Section 11. Section **35A-13-107**, which is renumbered from Section 53A-24-108 is renumbered and amended to read:

~~[53A-24-108].~~      35A-13-107.    **Acceptance and use of gifts -- Not subject to appropriation.**

(1) The ~~[executive]~~ director may, with the approval of the ~~[board]~~ executive director, accept and use ~~[gifts]~~ a gift to the office made unconditionally by will or otherwise for carrying out the purposes of this chapter.

(2) ~~[Gifts]~~ A gift to the office made under conditions that the ~~[board]~~ executive director finds to be consistent with this chapter may be accepted and used in accordance with the conditions of the gift.

(3) ~~[Gifts are]~~ A gift to the office as described in this section is not subject to



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appropriation by the Legislature.

Section 12. Section **35A-13-108**, which is renumbered from Section 53A-24-109 is renumbered and amended to read:

~~[53A-24-109].~~        **35A-13-108.** **Delegation of duties and responsibilities of the office.**

The ~~[executive]~~ director may, in accordance with applicable law and regulations and with the consent of the executive ~~[officer of the board,]~~ director, organize the office and delegate duties and responsibilities of ~~[the office to one or more of its divisions]~~ the office's employees to enable the office to better serve ~~[individuals']~~ individuals with disabilities and to increase the efficiency and effectiveness of operations.

Section 13. Section **35A-13-109**, which is renumbered from Section 53A-24-110 is renumbered and amended to read:

~~[53A-24-110].~~        **35A-13-109.** **Office duties to individuals with disabilities.**

In administering this chapter, the office:

(1) ~~[It is the intent of the Legislature that all activities of the office and its subordinate components be conducted in such a manner]~~ shall ensure that ~~[persons]~~ individuals with disabilities ~~[will be]~~ are assisted, so far as reasonably possible, to take their rightful place in open society as independent and self-supporting individuals~~[;]~~; and

(2) ~~[Neither the office nor any of its parts may]~~ may not assist or support any activity that ~~[will result]~~ results in unnecessary continuation of a dependent or isolated state or unnecessarily ~~[separate persons]~~ separates individuals with disabilities from open society.

Section 14. Section **35A-13-201** is enacted to read:

### **Part 2. Office Responsibilities**

**35A-13-201.** **Title.**

This part is known as "Office Responsibilities."

Section 15. Section **35A-13-202**, which is renumbered from Section 53A-24-105 is renumbered and amended to read:

~~[53A-24-105].~~        **35A-13-202.** **Functions of the office.**

The office may:

(1) apply for, receive, administer, and distribute funds made available through programs of federal ~~[or]~~, state, or local governments;

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- (2) cooperate with federal [~~or~~], state, or local governmental entities to administer programs and program funds;
- (3) contract or cooperate with public or private entities or individuals;
- (4) [~~if~~ as] designated by the responsible authority, and with the approval of the [~~board~~] department, perform any functions or services for the federal or state government that relate to individuals with disabilities;
- (5) establish subordinate administrative units necessary to increase efficiency and improve the delivery of services to individuals with disabilities;
- (6) establish and operate community service centers, rehabilitation facilities, and workshops, and make grants to public and nonprofit organizations for those purposes;
- (7) determine eligibility for, and the nature and scope of, services to be provided under the state plan for vocational rehabilitation or other programs administered by the office;
- (8) assist individuals with severe disabilities to establish and operate vending machine services and other small businesses, and perform services authorized under Title 55, Chapter 5, Blind Persons Operating Vending Stands - Food Services, and Title 55, Chapter 5a, Blind Products Sales;
- (9) furnish materials, tools, equipment, initial stocks and supplies, and occupational licenses needed by rehabilitation facilities, workshops, and small businesses established under this chapter, and develop and execute marketing plans for materials produced by those operations;
- (10) place money received by the office [~~or a subordinate unit~~] through sale of products or services as authorized under this chapter into a fund managed by the office and used to support additional training, production, and sales activities;
- (11) conduct studies and investigations, give demonstrations and make reports, and provide training and instruction related to the work of the office;
- (12) establish and maintain research fellowships and traineeships, including necessary stipends and allowances for those receiving training and instruction;
- (13) institute and supervise programs to encourage the conservation of sight and hearing and assist in overcoming and preventing disabling conditions;
- (14) provide diagnostic, placement, vocational rehabilitation, training, adjustment, and independent living services; and

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(15) do all other things necessary to carry out assignments made by law or the [board] department in assisting and rehabilitating [persons] individuals with disabilities.

Section 16. Section **35A-13-203**, which is renumbered from Section 53A-24-106.5 is renumbered and amended to read:

~~[53A-24-106.5]~~. **35A-13-203**. **Employment first emphasis on the provision of services.**

(1) When providing services to [~~a person~~] an individual with a disability under this chapter, the office shall, within funds appropriated by the Legislature and in accordance with the requirements of federal and state law, give priority to providing services that assist the [~~person~~] individual in obtaining and retaining meaningful and gainful employment that enables the [~~person~~] individual to:

- (a) purchase goods and services;
- (b) establish self-sufficiency; and
- (c) exercise economic control of the [~~person's~~] individual's life.

(2) The office shall develop a written plan to implement the policy described in Subsection (1) that includes:

- (a) assessing the strengths and needs of [~~a person~~] an individual with a disability;
- (b) customizing strength-based approaches to obtaining employment;
- (c) setting expectations, providing appropriate services toward, and recognizing success in:
  - (i) integrated employment in the workplace at competitive wages and benefits; and
  - (ii) self-employment;
- (d) developing partnerships with potential employers;
- (e) providing appropriate employment training opportunities;
- (f) coordinating services with other government agencies and community resources [~~included in the Workforce Investment System~~];
- (g) to the extent possible, eliminating practices and policies that interfere with the policy described in Subsection (1); and
- (h) arranging for alternative work experience leading to competitive, integrated employment, including work-based training, volunteer work, and internships.

(3) The office shall, on an annual basis:

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(a) set goals to implement the policy described in Subsection (1) and the plan described in Subsection (2);

(b) determine whether the goals for the previous year have been met; and

(c) modify the plan described in Subsection (2) as needed.

Section 17. Section **35A-13-301** is enacted to read:

### **Part 3. Governor's Committee on Employment of People with Disabilities**

#### **35A-13-301. Title.**

This part is known as "Governor's Committee on Employment of People with Disabilities."

Section 18. Section **35A-13-302**, which is renumbered from Section 53A-24-114 is renumbered and amended to read:

~~[53A-24-114].~~      **35A-13-302. Governor's Committee on Employment of People with Disabilities.**

~~[(1) There is created the Governor's Committee on Employment of People with Disabilities.]~~

~~[(2)(a) The State Board of Education shall appoint at least 12 members to the committee.]~~

~~[(b) The State Board of Education shall ensure that the committee includes members from the public and private sectors who represent:]~~

~~[(i) business and industry;]~~

~~[(ii) individuals with disabilities and their advocates;]~~

~~[(iii) job training and placement;]~~

~~[(iv) administrative subunits of the state, such as the Department of Human Resource Management, the Department of Workforce Services, Public Education, Higher Education, and the Department of Human Services;]~~

~~[(v) labor;]~~

~~[(vi) veterans;]~~

~~[(vii) medical;]~~

~~[(viii) health;]~~

~~[(ix) insurance;]~~

~~[(x) media; and]~~

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~~[(xi) the general public.]~~

(1) There is created the Governor's Committee on Employment of People with Disabilities, composed of the following ~~13~~ 15 members:

(a) the director of the office;

(b) the state superintendent of public instruction or the superintendent's designee;

(c) the commissioner of higher education or the commissioner's designee;

(d) the executive director of the Department of Human Resource Management or the executive director's designee;

(e) the executive director of the Department of Human Services or the executive director's designee;

(f) the executive director of the Department of Health or the executive director's designee; and

(g) the following ~~seven~~ nine members appointed by the governor:

(i) a representative of individuals who are blind or visually impaired;

(ii) a representative of individuals who are deaf or ~~hard of~~ hearing ~~impaired~~;

(iii) a representative of individuals who have disabilities;

(iv) ~~a representative~~ three representatives of business or industry;

(v) a representative experienced in job training and placement;

(vi) a representative of veterans; and

(vii) a representative experienced in medical, health, or insurance professions.

~~[(c)]~~ (2) (a) (i) Except as provided in Subsection (2)~~[(c)]~~(a)(ii), the ~~[State Board of Education]~~ governor shall appoint the committee members described in Subsection (1)(g) to serve four-year terms.

(ii) In making the initial appointments to the committee, the ~~[State Board of Education]~~ governor shall appoint approximately 1/2 of the members to two-year terms and 1/2 of the members to four-year terms.

~~[(d)]~~ (b) Committee members shall serve until their successors are appointed and qualified.

~~[(e)]~~ (c) The ~~[State Board of Education]~~ governor shall fill any vacancy that occurs on the committee for any reason by appointing a person according to the procedures of this section for the unexpired term of the vacated member.

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~~[(f) The State Board of Education shall select a chair from the membership.]~~

(d) The director of the office shall serve as chair of the committee.

~~[(g)]~~ (e) Seven members of the committee are a quorum for the transaction of business.

(3) (a) The committee shall:

(i) promote employment opportunities for individuals with disabilities;

(ii) serve as the designated state liaison to the President's Committee on Employment of People with Disabilities;

(iii) provide training and technical assistance to employers in implementing the Americans with Disabilities Act;

(iv) develop and disseminate appropriate information through workshops, meetings, and other requests in response to needs to employers and others regarding employment of individuals with disabilities;

(v) establish contacts with various community representatives to identify and resolve barriers to full participation in employment and community life;

(vi) formally recognize exemplary contributions in the areas of employment, job placement, training, rehabilitation, support services, medicine, media or public relations, and personal achievements made by individuals with disabilities;

(vii) advise, encourage, and motivate individuals with disabilities who are preparing for or seeking employment to reach their full potential as qualified employees;

(viii) advocate for policies and practices that promote full and equal rights for individuals with disabilities;

(ix) advise the ~~[State Board of Education]~~ office, the department, and the governor on issues that affect employment and other requests for information on disability issues; and

(x) prepare an annual report on the progress, accomplishments, and future goals of the committee and present the report to the ~~[State Board of Education and the governor; and]~~ department for inclusion in the department's annual report described in Section 35A-1-109.

~~[(xi) establish and maintain a cooperative liaison between the governor's office, the executive director of the committee, and the executive director of the Utah State Office of Rehabilitation to fulfill the committee's purpose.]~~

(b) The committee may, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive

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and accept state funds, private gifts, donations, and funds from any source to carry out its purposes.

(4) The [~~director of the State Office of Rehabilitation shall appoint a person to~~] office shall staff the committee.

Section 19. Section **35A-13-303**, which is renumbered from Section 53A-24-205 is renumbered and amended to read:

~~[53A-24-205].~~        **35A-13-303. State rehabilitation advisory council.**

(1) The [~~board~~] department shall appoint [~~an advisory council~~] a state rehabilitation advisory council to advise the [~~office, DRS, and, as appropriate, the board~~] office and the department concerning the [~~need~~] needs of individuals with disabilities and the [~~activities of DRS regarding~~] provision of vocational rehabilitation services.

(2) A majority of the membership of the advisory council shall consist of individuals with disabilities.

~~[(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.]~~

(3) A member of the council may not receive compensation or benefits for the member's service, but 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 in accordance with Sections 63A-3-106 and 63A-3-107.

Section 20. Section **35A-13-401** is enacted to read:

### **Part 4. Services for the Blind and Visually Impaired**

**35A-13-401. Title.**

This part is known as "Services for the Blind and Visually Impaired."

Section 21. Section **35A-13-402**, which is renumbered from Section 53A-24-304 is renumbered and amended to read:

~~[53A-24-304].~~        **35A-13-402. Office responsibilities.**

~~[DSBVI]~~ In providing assistance to the blind and visually impaired, the office may:

(1) provide:

(a) a business enterprise program;

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(b) ~~[sheltered]~~ workshops, employment, and training; and

(c) vocational rehabilitation, training and adjustment, sight conservation, prevention of blindness, low vision lens, and recreational services for individuals who are blind or have visual impairments;

(2) assist public education officials in the discharge of their duties towards children who are blind or have visual impairments, and perform services related to vision screening under Section 53A-11-203;

(3) maintain a register of individuals who are blind or have visual impairments, including such facts as the ~~[board]~~ office considers necessary for proper planning, administration, and operations, but protecting against unwarranted invasions of privacy;

(4) establish and operate community service centers, rehabilitation facilities, and workshops; and

(5) perform other duties assigned by the director or the executive director ~~[or the board]~~.

Section 22. Section **35A-13-403**, which is renumbered from Section 53A-24-305 is renumbered and amended to read:

~~[53A-24-305].~~      **35A-13-403. Appointment of advisory council.**

(1) The ~~[board]~~ department shall appoint an advisory council to advise and assist the ~~[office, DSBVI, and, as appropriate, the board]~~ office and the department in matters relating to the needs of and provision of services to individuals who are blind or have visual impairments ~~[and the activities of DSBVI]~~.

(2) At least one-third of the members of the council shall be individuals who are blind or have visual impairments.

~~[(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.]~~

(3) A member of the council may not receive compensation or benefits for the member's service, but 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 in accordance with Sections 63A-3-106 and 63A-3-107.



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Section 23. Section 35A-13-501 is enacted to read:

### Part 5. Services for the Deaf and Hard of Hearing~~{Impaired}~~

#### 35A-13-501. Title.

This part is known as "Services for the Deaf and Hard of Hearing~~{Impaired}~~."

Section 24. Section 35A-13-502, which is renumbered from Section 53A-24-404 is renumbered and amended to read:

#### ~~[53A-24-404].~~ 35A-13-502. Office responsibilities.

~~[DSDHH]~~ In providing assistance to the deaf and hard of hearing~~{impaired}~~, the office may:

- (1) provide training and adjustment services for adults ~~[with hearing impairments]~~ who are deaf or hard of hearing;
- (2) assist public education officials in the discharge of their duties towards children ~~[with hearing impairments]~~ who are deaf or hard of hearing;
- (3) maintain a register of qualified interpreters;
- (4) provide training in the use of telecommunication devices for the deaf, and install and maintain those devices;
- (5) operate community centers for individuals ~~[with hearing impairments]~~ who are deaf or hard of hearing~~{impaired}~~; and
- (6) perform other duties assigned by the director or the executive director ~~[or the board]~~.

Section 25. Section 35A-13-503, which is renumbered from Section 53A-24-405 is renumbered and amended to read:

#### ~~[53A-24-405].~~ 35A-13-503. Appointment of advisory council.

(1) The ~~[board]~~ department shall appoint an advisory council to advise and assist the ~~[office, DSDHH, and, as appropriate, the board]~~ office and the department in matters relating to the needs of and provision of services to individuals ~~[with hearing impairments and the activities of DSDHH]~~ who are deaf or hard of hearing~~{impaired}~~.

(2) At least one-third of the members of the council shall be individuals ~~[with hearing impairments]~~ who are deaf or hard of hearing~~{impaired}~~.

~~[(3) Members may be reimbursed for authorized actual and necessary expenses incurred by them in the performance of their official duties.]~~

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(3) A member of the council may not receive compensation or benefits for the member's service, but 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 in accordance with Sections 63A-3-106 and 63A-3-107.

~~{53A-26a-101. Title:~~

~~— This chapter }~~ Section 26. Section 35A-13-601, which is renumbered from Section 53A-26a-101 is renumbered and amended to read:

### Part 6. Interpreter Services for the Deaf and Hard of Hearing Act

~~[53A-26a-101].~~ 35A-13-601. Title.

~~(1) This [chapter] part~~ is known as the "Interpreter Services for the ~~[Hearing Impaired Act]."~~

~~— 53A-26a-102. Definitions; ]~~ Deaf and Hard of Hearing Act."

(2) All rules made under this part shall be made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 27. Section 35A-13-602, which is renumbered from Section 53A-26a-102 is renumbered and amended to read:

~~[53A-26a-102].~~ 35A-13-602. Definitions.

As used in this ~~[chapter] part:~~

(1) "Advisory board" or "board" means the Interpreters Certification Board created in Section ~~[53A-26a-201]~~ 35A-13-603.

(2) "Certified interpreter" means ~~[a person]~~ an individual who is certified as meeting the certification requirements of this ~~[chapter] part.~~

~~[(3) "Hearing impaired" means a hearing loss which:]~~

~~[(a) necessitates the visual acquisition of language; or]~~

~~[(b) adversely affects the acquisition of language but which does not preclude the auditory acquisition of language.]~~

~~[(4)]~~ (3) "Interpreter services" means services that facilitate effective communication between a hearing ~~[person and a person]~~ individual and an individual who is ~~[hearing-impaired as defined by Subsection (3);]~~ deaf or hard of hearing through American Sign Language or a

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language system or code that is modeled after American Sign Language, in whole or in part, or is in any way derived from American Sign Language.

~~{53A-26a-202. Powers}~~ Section 28. Section 35A-13-603, which is renumbered from Section 53A-26a-201 is renumbered and amended to read:

~~[53A-26a-201].~~ **35A-13-603. Board.**

(1) There is created to assist the [State Board of Education] director of the office the Interpreters Certification Board consisting of the following 11 members:

(a) a designee of the director [of the Division of Services to the Deaf and Hard of Hearing (DSDHH) in the Utah State Office of Rehabilitation];

(b) a designee of the State Board of Regents;

(c) a designee of the State Board of Education;

(d) four professional interpreters, recommended by the director [of DSDHH]; and

(e) four [persons who are hearing impaired] individuals who are deaf or hard of hearing, recommended by the director [of DSDHH].

(2) (a) The [State Board of Education] director shall make all appointments to the board.

(b) In making [its] appointments under Subsections (1)(d) and (e), the [State Board of Education] director shall give consideration to recommendations by certified interpreters [for the hearing impaired] and members of the [hearing impaired] deaf and hard of hearing community.

(3) (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.

(b) [A person] An individual may not serve more than two three-year consecutive terms.

(c) If a vacancy occurs on the board for [any other] a reason other than the expiration of a term, the [State Board of Education] director shall appoint a replacement for the remainder of the term [pursuant to] in accordance with Subsections (1) and (2).

(4) The [State Board of Education] director may remove [any] a board member for cause, which [shall] may include misconduct, incompetence, or neglect of duty.

(5) The board shall [elect] annually elect a chair and vice chair from among its

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members.

(6) The board shall meet as often as necessary to accomplish the purposes of this [chapter] part, but not less than quarterly.

[(7) Board members shall receive compensation for actual and necessary expenses in connection with their service on the board, but shall not receive a per diem.]

(7) A member of the board may not receive compensation or benefits for the member's service, but may receive travel expenses in accordance with:

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

(b) rules made by the Division of Finance in accordance with Section 63A-3-107.

Section 29. Section 35A-13-604, which is renumbered from Section 53A-26a-202 is renumbered and amended to read:

~~53A-26a-202].~~ **35A-13-604. Powers and duties of the board.**

(1) The board shall function as an advisory board to the [State Board of Education] director and under the director's direction [of the State Board of Education] shall perform the following duties concerning the certification of interpreters:

[(a) recommend to the state board]

(a) make recommendations to the director regarding:

(i) appropriate rules;

[(b) recommend to the state board]

(ii) policy and budgetary matters;

[(c) recommend to the state board a]

(iii) the appropriate passing score for applicant examinations;

— [(d)] and

(iv) standards of supervision for individuals in training to become certified interpreters;

[(d)] (b) screen applicants for certification and [recommend] make written recommendations to the director regarding certification, renewal, reinstatement, and recertification actions [to the state board in writing]; and

[(e) recommend standards of supervision for persons in training to become certified interpreters; and]

[(f)] (c) act as the presiding officer in conducting hearings associated with adjudicative proceedings and in issuing recommended orders [when so] as designated by the [State Board of

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Education] director.

(2) The [~~State Board of Education]~~ director, with the collaboration and assistance of the advisory board, shall:

- (a) prescribe certification qualifications;
- (b) prescribe rules governing applications for certification;
- (c) provide for a fair and impartial method [~~of]~~ for the examination of applicants;
- (d) define unprofessional conduct, by rule, to supplement the definition under this

[chapter] part; and

- (e) establish conditions for reinstatement and renewal of certification.

(3) (a) The advisory board shall designate one of its members on a permanent or rotating basis to:

(i) assist the [~~state board]~~ director in reviewing complaints involving the unlawful or unprofessional conduct of a certified interpreter; and

(ii) advise the [~~state board in its investigation of these]~~ director when investigating complaints.

(b) An advisory board member who has, under Subsection (3)(a), reviewed or investigated a complaint [~~or advised in its investigation]~~ is disqualified from participating with the advisory board [~~when it]~~ if the board serves as a presiding officer of an administrative proceeding concerning the complaint.

~~{ 53A-26a-301. Certification }~~ Section 30. Section 35A-13-605, which is renumbered from Section 53A-26a-301 is renumbered and amended to read:

[53A-26a-301]. 35A-13-605. Certification required -- Classes of certification.

(1) Except as specifically provided in Section [~~53A-26a-305]~~ 35A-13-609, an individual is required to be certified as a certified interpreter if that individual provides interpreter services and a state or federal law requires the interpreter to be certified or qualified.

(2) The [~~State Board of Education]~~ director shall issue a certification to [~~any person]~~ an individual who qualifies under this chapter in classifications determined by the [~~board]~~ director based upon recommendations from the advisory board.

~~{ 53A-26a-302. Qualifications }~~ Section 31. Section 35A-13-606, which is renumbered from Section 53A-26a-302 is renumbered and amended to read:

[53A-26a-302]. 35A-13-606. Qualifications for certification.

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Each applicant for certification under this ~~[chapter]~~ part shall:

- (1) submit an application in a form prescribed by the ~~[State Board of Education]~~ director;
- (2) pay a fee determined by the ~~[State Board of Education]~~ director under Section 63J-1-504 to help offset the costs of implementing this ~~[chapter]~~ part for the administration of examinations for certification and for the issuance of certificates;
- (3) be of good moral character; and
- (4) comply with any other qualifications for certification established by the ~~[State Board of Education pursuant to Subsection 53A-26a-202(2)]~~;

~~53A-26a-303. Certification}]~~ director in accordance with Subsection 35A-13-604(2).  
Section 32. Section 35A-13-607, which is renumbered from Section 53A-26a-303 is renumbered and amended to read:

~~[53A-26a-303].~~ 35A-13-607. Certification term -- Expiration -- Renewal.

- (1) (a) The ~~[State Board of Education]~~ director shall issue each certificate under this ~~[chapter]~~ part in accordance with a three-year renewal cycle established by rule.
- (b) The ~~[State Board of Education]~~ director may by rule extend or shorten a renewal cycle by as much as one year to stagger the renewal cycles it administers.
- (2) At the time of renewal, the certified interpreter must show satisfactory evidence of compliance with renewal conditions established by the ~~[State Board of Education pursuant to Subsection 53A-26a-202(2)]~~ director in accordance with Subsection 35A-13-604(2).
- (3) Each certificate automatically expires on the expiration date shown on the certificate unless the certified interpreter renews it in accordance with the conditions prescribed by the ~~[State Board of Education for renewal]~~;

~~53A-26a-304. Continuing}]~~ director.

Section 33. Section 35A-13-608, which is renumbered from Section 53A-26a-304 is renumbered and amended to read:

~~[53A-26a-304].~~ 35A-13-608. Continuing education.

- (1) (a) As a condition for renewal of certification, each certified interpreter shall, during each three-year certification cycle or other cycle defined by rule, complete a number of hours of qualified continuing professional education in accordance with standards defined by rule.

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(b) The ~~[State Board of Education]~~ director shall determine the number of hours based upon recommendations from the advisory board.

(2) If the renewal cycle is extended or shortened under Section ~~[53A-26a-303]~~ 35A-13-607, the continuing education hours determined for renewal under Subsection (1) shall be increased or decreased proportionately.

~~{ 53A-26a-305. Exemptions }~~ Section 34. Section 35A-13-609, which is renumbered from Section 53A-26a-305 is renumbered and amended to read:

[53A-26a-305]. 35A-13-609. Exemptions from certification -- Temporary or restricted certification.

(1) The following individuals may engage in the practice of a certified interpreter, subject to the stated circumstances and limitations, without being certified under this chapter:

(a) an individual serving in or employed by the Armed Forces of the United States, the United States Public Health Service, the United States Department of Veterans Affairs, or other federal ~~[agencies while]~~ agency and who is engaged in activities regulated under this ~~[chapter]~~ part as a part of the individual's service or employment with that federal agency, if the ~~[person]~~ individual holds a valid certificate or license to provide interpreter services issued by ~~[any other]~~ another state or jurisdiction recognized by the ~~[State Board of Education]~~ director;

(b) a student engaged in providing interpreter services while in training in a recognized school approved by the ~~[State Board of Education]~~ director to the extent the student's activities are supervised by qualified faculty, staff, or a designee, and the services are a defined part of the training program;

(c) an individual engaged in an internship, residency, apprenticeship, or on-the-job training program approved by the ~~[State Board of Education]~~ director while under the supervision of a qualified ~~[persons]~~ individual;

(d) an individual residing in another state and certified or licensed to provide interpreter services in that state, who is called in for a consultation by an individual certified to provide interpreter services in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, or other body approved by the ~~[State Board of Education]~~ director to conduct a lecture, clinic, or demonstration on interpreter services, if the individual does not establish a place of business or

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regularly engage in the practice of providing interpreter services in this state;

(f) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the individual may only attend to the needs of the team or group ~~including all~~ and individuals who travel with the team or group, ~~except as a spectator~~ not including spectators; or

(g) an individual who is providing interpreter services for a religious entity, to the extent that the religious entity is specifically exempted from liability under federal law.

(2) (a) An individual temporarily in this state who is exempted from certification under Subsection (1) shall comply with each requirement of the jurisdiction from which the individual derives authority to ~~practice~~ provide interpreter services.

(b) Violation of any limitation imposed by this section is grounds for removal of exempt status, denial of certification, or another disciplinary proceeding.

(3) (a) Upon the declaration of a national, state, or local emergency, the ~~State Board of Education~~ director, in collaboration with the advisory board, may suspend the requirements for permanent or temporary certification of ~~persons~~ individuals who are certified or licensed in another state.

(b) Individuals exempt under Subsection (3)(a) shall be exempt from certification for the duration of the emergency while engaged in providing interpreter services for which they are certified or licensed in the other state.

(4) The ~~State Board of Education~~ director, after consulting with the advisory board, may adopt rules for the issuance of temporary or restricted certifications if their issuance is necessary to or justified by:

(a) a lack of necessary available interpretive services in any area or community of the state, if the lack of services might be reasonably considered to materially jeopardize compliance with state or federal law; or

(b) a need to first observe an applicant for certification in a monitored or supervised practice of providing interpretive services before a decision is made by the board either to grant or deny the applicant a regular certification.

~~{ 53A-26a-401. Grounds }~~ Section 35. Section 35A-13-610, which is renumbered from Section 53A-26a-401 is renumbered and amended to read:

~~[53A-26a-401].~~ 35A-13-610. Grounds for denial of certification --



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### Disciplinary proceedings.

(1) The ~~[State Board of Education]~~ director shall refuse to issue a certificate to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the certificate of a certified interpreter who does not meet the qualifications for certification under this ~~[chapter]~~ part.

(2) The ~~[State Board of Education]~~ director may refuse to issue a certificate to an applicant, refuse to renew a certificate, revoke, suspend, restrict, or place on probation the certificate of a certified interpreter, issue a public or private reprimand to a certified interpreter, and issue a cease and desist order in any of the following ~~[cases]~~ circumstances:

(a) the applicant or certified interpreter has engaged in unprofessional conduct as defined in this ~~[chapter]~~ part or by rule under this ~~[chapter]~~ part;

(b) the applicant or certified interpreter has engaged in unlawful conduct as defined in this ~~[chapter]~~ part;

(c) the applicant or certified interpreter has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or

(d) the applicant or certified interpreter is unable to provide interpretive services with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the individual's condition demonstrates a threat or potential threat to ~~[the]~~ public health, safety, or welfare.

(3) An individual whose certificate has been suspended, revoked, or restricted under Subsection (1) may apply for reinstatement at reasonable intervals and upon compliance with conditions imposed by the ~~[State Board of Education]~~ director.

(4) The ~~[State Board of Education]~~ director may issue cease and desist orders:

(a) to a certified interpreter or applicant who ~~[may be disciplined]~~ is subject to discipline under Subsection (1);

(b) to ~~[any person]~~ an individual who engages or represents ~~[himself to be]~~ that the individual is engaged in the profession of a certified interpreter; and

(c) to ~~[any person]~~ an individual who otherwise violates this ~~[chapter or any rules adopted under this chapter]~~ part or rules adopted under this part.

~~53A-26a-501. Unlawful;~~ part or rules adopted under this part.

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Section 36. Section 35A-13-611, which is renumbered from Section 53A-26a-501 is renumbered and amended to read:

[53A-26a-501].      35A-13-611. Unlawful conduct.

"Unlawful conduct" means conduct by [any person] an individual that is defined as unlawful under this part and includes:

(1) practicing or engaging in, representing oneself to be practicing or engaging in, or attempting to practice or engage in the profession of a certified interpreter if the [person] individual is:

(a) not certified to do so [or] and is not exempted from certification under this chapter;  
or

(b) restricted from doing so by a restricted, suspended, revoked, temporary, probationary, or inactive certification;

(2) impersonating another certified interpreter or practicing as a certified interpreter under a false or assumed name, except as permitted by law;

(3) knowingly employing [any other person] an individual to practice or engage in or attempt to practice or engage in the profession of a certified interpreter, if the employee is not certified to do so under this chapter;

(4) knowingly permitting the [person's] individual's authority to engage in the profession of a certified interpreter to be used by another individual, except as permitted by law; or

(5) applying for [or] certification under this part, obtaining certification under this part, or otherwise dealing with the [State Board of Education] director through the use of fraud, forgery, or intentional deception, misrepresentation, misstatement, or omission.

~~{53A-26a-502. Unprofessional}~~; Section 37. Section 35A-13-612, which is renumbered from Section 53A-26a-502 is renumbered and amended to read:

[53A-26a-502].      35A-13-612. Unprofessional conduct.

"Unprofessional conduct" means conduct by a certified interpreter that is defined as unprofessional conduct under this [chapter] part or under any rules adopted under this [chapter] part and includes:

(1) violating, or aiding or abetting [any other person to violate] an individual in violating, any provision of this [chapter or rule] part, rule adopted under this part, or order

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regulating certified interpreters;

(2) violating, or aiding or abetting ~~[any other person to violate]~~ an individual in violating, any generally accepted professional or ethical standard applicable to the profession of a certified interpreter; or

(3) physically, mentally, or sexually abusing or exploiting ~~[any person]~~ an individual through conduct connected with a certified interpreter's practice under this ~~chapter~~.

~~53A-26a-503. Penalty~~ [chapter] part.

Section 38. Section 35A-13-613, which is renumbered from Section 53A-26a-503 is renumbered and amended to read:

[53A-26a-503].      35A-13-613. Penalty for unlawful conduct.

[Any person] An individual who violates Section ~~[53A-26a-501]~~ 35A-13-610 is guilty of a class B misdemeanor.

Section ~~{26}~~39. Section **53A-1-403.5** is amended to read:

**53A-1-403.5. Education of persons in custody of the Utah Department of Corrections -- Contracting for services -- Recidivism reduction plan -- Collaboration among state agencies.**

(1) The State Board of Education and the Utah Department of Corrections, subject to legislative appropriation, are responsible for the education of persons in the custody of the Utah Department of Corrections.

(2) (a) To fulfill the responsibility under Subsection (1), the State Board of Education and the Utah Department of Corrections shall, where feasible, contract with appropriate private or public agencies to provide educational and related administrative services. Contracts for postsecondary education and training shall be under Subsection (2)(b).

(b) (i) The contract under Subsection (2)(a) to provide postsecondary education and training shall be with a community college if the correctional facility is located within the service region of a community college, except under Subsection (2)(b)(ii).

(ii) If the community college under Subsection (2)(b)(i) declines to provide the education and training or cannot meet reasonable contractual terms for providing the education and training as specified by the Utah Department of Corrections, postsecondary education and training under Subsection (2)(a) may be procured through other appropriate private or public agencies.

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(3) (a) As its corrections education program, the State Board of Education and the Utah Department of Corrections shall develop and implement a recidivism reduction plan, including the following components:

- (i) inmate assessment;
- (ii) cognitive problem-solving skills;
- (iii) basic literacy skills;
- (iv) career skills;
- (v) job placement;
- (vi) postrelease tracking and support;
- (vii) research and evaluation;
- (viii) family involvement and support; and
- (ix) multiagency collaboration.

(b) The plan shall be developed and implemented through the State Office of Education and the Utah Department of Corrections in collaboration with the following entities:

- (i) the State Board of Regents;
- (ii) the Utah College of Applied Technology Board of Trustees;
- (iii) local boards of education;
- (iv) the Department of Workforce Services;
- (v) the Department of Human Services;
- (vi) the Board of Pardons and Parole;
- (vii) the Utah State Office of Rehabilitation; and
- (viii) the Governor's Office.

(4) By July 1, 2014, and every three years thereafter, the Utah Department of Corrections shall make a report to the Education Interim Committee and the Judiciary, Law Enforcement, and Criminal Justice Interim Committee evaluating the impact of corrections education programs on recidivism.

Section ~~{27}~~40. Section **53A-1a-501.7** is amended to read:

**53A-1a-501.7. State Charter School Board -- Staff director -- Facilities.**

(1) (a) The State Charter School Board, with the consent of the superintendent of public instruction, shall appoint a staff director for the State Charter School Board.

(b) The State Charter School Board shall have authority to remove the staff director

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with the consent of the superintendent of public instruction.

(c) The position of staff director is exempt from the career service provisions of Title 67, Chapter 19, Utah State Personnel Management Act.

(2) The superintendent of public instruction shall provide space for staff of the State Charter School Board in facilities occupied by the Utah State Office of Education, with costs charged for the facilities equal to those charged other sections and divisions within the Utah State Office of Education [~~and Utah State Office of Rehabilitation~~].

Section ~~{28}~~41. Section **53A-11-203** is amended to read:

### **53A-11-203. Vision screening.**

(1) As used in this section:

(a) [~~"Division"~~] "Office" means the [~~Division of Services for the Blind and Visually Impaired created under Section 53A-24-302~~] Utah State Office of Rehabilitation created in Section 35A-1-202.

(b) "Qualifying child" means a child who is at least 3-1/2 years old, but is less than nine years old.

(2) A child under nine years old entering school for the first time in this state must present the following to the school:

(a) a certificate signed by a licensed physician, optometrist, or other licensed health professional approved by the [~~division~~] office, stating that the child has received vision screening to determine the presence of amblyopia or other visual defects; or

(b) a written statement signed by at least one parent or legal guardian of the child that the screening violates the personal beliefs of the parent or legal guardian.

(3) (a) The [~~division~~] office:

(i) shall provide vision screening report forms to a person approved by the [~~division~~] office to conduct a free vision screening for a qualifying child;

(ii) may work with health care professionals, teachers, and vision screeners to develop protocols that may be used by a parent, teacher, or vision screener to help identify a child who may have conditions that are not detected in a vision screening, such as problems with eye focusing, eye tracking, visual perceptual skills, visual motor integration, and convergence insufficiency; and

(iii) shall, once protocols are established under Subsection (3)(a)(ii), develop language

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regarding the vision problems identified in Subsection (3)(a)(ii) to be included in the notice required by Subsection (3)(b).

(b) The report forms shall include the following information for a parent or guardian: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(4) A school district or charter school may conduct free vision screening clinics for a qualifying child.

(5) (a) The [division] office shall maintain a central register of qualifying children who fail vision screening and who are referred for follow-up treatment.

(b) The register described in Subsection (5)(a) shall include the name of the child, age or birthdate, address, cause for referral, and follow-up results.

(c) A school district or charter school shall report to the [division] office referral follow-up results for a qualifying child.

(6) (a) A school district or charter school shall ensure that a volunteer who serves as a vision screener for a free vision screening clinic for a qualifying child:

- (i) is a school nurse;
- (ii) holds a certificate issued by the [division] office under Subsection (6)(b)(ii); or
- (iii) is directly supervised by an individual described in Subsection (6)(a)(i) or (ii).

(b) The [division] office shall:

(i) provide vision screening training to a volunteer seeking a certificate described in Subsection (6)(b)(ii), using curriculum established by the [division] office; and

(ii) issue a certificate to a volunteer who successfully completes the vision screening training described in Subsection (6)(b)(i).

(c) An individual described in Subsection (6)(a) is not liable for damages that result from acts or omissions related to the vision screening, unless the acts or omissions are willful or grossly negligent.

(7) (a) Except as provided in Subsection (7)(b), a licensed health professional providing vision care to private patients may not participate as a screener in a free vision screening program provided by a school district.

(b) A school district or charter school may:

- (i) allow a licensed health professional who provides vision care to private patients to

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participate as a screener in a free vision screening program for a child 3-1/2 years old or older;

(ii) establish guidelines to administer a free vision screening program described in Subsection (7)(b)(i); and

(iii) establish penalties for a violation of the requirements of Subsection (7)(c).

(c) A licensed health professional or other person who participates as a screener in a free vision screening program described in Subsection (7)(b):

(i) may not market, advertise, or promote the licensed health professional's business in connection with providing the free screening at the school; and

(ii) shall provide the child's results of the free vision screening on a form produced by the school or school district, which:

(A) may not include contact information other than the name of the licensed health professional; and

(B) shall include a statement: "vision screening is not a substitute for a complete eye exam and vision evaluation by an eye doctor."

(d) A school district or charter school may provide information to a parent or guardian of the availability of follow up vision services for a student.

(8) The Department of Health shall:

(a) by rule, set standards and procedures for vision screening required by this chapter, which shall include a process for notifying the parent or guardian of a child who fails a vision screening or is identified as needing follow-up care; and

(b) provide the [division] office with copies of rules, standards, instructions, and test charts necessary for conducting vision screening.

(9) The [division] office shall supervise screening, referral, and follow-up required by this chapter.

Section ~~{29}~~42. Section ~~{53A-26a-201}~~53A-24-601 is ~~{amended}~~enacted to read:

~~{53A-26a-201. Board.~~

~~(1) There is created to assist the State Board of Education the Interpreters Certification Board consisting of the following 11 members:~~

~~(a) a designee of the director of the [Division of Services to the Deaf and Hard of Hearing (DSDHH) in the] Utah State Office of Rehabilitation created in Section 35A-1-202;~~

~~(b) a designee of the State Board of Regents;~~

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~~(c) a designee of the State Board of Education;~~

~~(d) four professional interpreters, recommended by the director of [DSDHH];~~ **Part 6.**

### **Transition Plan for the Utah State Office of Rehabilitation;** ~~and~~

~~(e) four persons who are hearing impaired, recommended by the director of [DSDHH];~~

#### **53A-24-601. Transition plan.**

~~(1) On or before June 1, 2016, the Department of Workforce Services and the Utah State Office of Rehabilitation;~~

~~(2) (a) The State Board of Education shall make all appointments to the board.~~

~~(b) In making its appointments under Subsections (1)(d) and (e),~~ **shall develop a written transition plan for moving the Utah State Office of Rehabilitation from the State Board of Education {shall give consideration to recommendations by interpreters for the hearing impaired and members of the hearing impaired community.**

~~(3) (a) Board members shall serve three-year terms, except that for the initial terms of board members, three shall serve one-year terms, four shall serve two-year terms, and four shall serve three-year terms.~~

~~(b) A person may not serve more than two three-year consecutive terms.~~

~~(c) If a vacancy occurs on the board for any other reason than the expiration of a term,~~ **to the Department of Workforce Services on October 1, 2016, that describes:**

**(a) the tasks that need to be completed before the move on October 1, 2016, including a description of:**

**(i) which employees, by job title and classification, will transition to the Utah State Office of Rehabilitation under the Department of Workforce Services from the State Board of Education {shall appoint a replacement for the remainder of the term pursuant to Subsections (1) and (2).**

~~(4) The~~ **and the expected transition dates;**

**(ii) office space and infrastructure requirements related to the transition;**

**(iii) any work site location changes for transitioning employees;**

**(iv) the transition of service delivery sites;**

**(v) amendments needed to existing contracts;**

**(vi) the provision of directions and information to Utah State Office of Rehabilitation clients regarding where services will be provided and the hours services will be provided;**



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(vii) procedures for the transfer and reconciliation of budgeting and funding of the Utah State Office of Rehabilitation as the office transitions from the State Board of Education to the Department of Workforce Services; and

(viii) the transition of technology services to the Utah State Office of Rehabilitation;

(b) the tasks that need to be completed during the year after the move on October 1, 2016; and

(c) how the transition to the Department of Workforce Services will be funded, including details of:

(i) how expenses associated with the transition will be managed;

(ii) how funding for services provided by the Utah State Office of Rehabilitation will be managed between the State Board of Education and the Department of Workforce Services to ensure services will be provided by the Utah State Office of Rehabilitation without interruption; and

(iii) how federal funds will be used by or transferred between the State Board of Education and the Department of Workforce Services to ensure services will be provided by the Utah State Office of Rehabilitation without interruption.

(2) The written transition plan shall:

(a) contain a timeline for the completion of the tasks described in Subsection (1)(a);

(b) be updated at least every two weeks until the transition is complete;

(c) describe how information will be provided to Utah Office of Rehabilitation clients regarding any changes to where services will be provided and the hours services will be provided;

(d) be provided to the:

(i) State Board of Education and the superintendent of public instruction;

(ii) Division of Finance;

(iii) Utah State Office of Rehabilitation; and

(iv) Department of Technology Services; and

(e) be made available to transitioning or potentially transitioning employees.

(3) The Department of Workforce Services and the Utah State Office of Rehabilitation shall publish information on their websites for Utah State Office of Rehabilitation clients and employees that provides a full overview of the written transition plan and how the move will

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affect client services offered by the Utah State Office of Rehabilitation, including regularly updated:

(a) information regarding the location where services are provided and the hours services are provided; and

(b) contact information so that clients can contact transitioning employees and obtain information regarding client services.

(4) The Department of Workforce Services and the State Board of Education may ~~remove any board member for cause, which shall include misconduct, incompetence, or neglect of duty.~~

~~— (5) The board shall elect annually a chair and vice chair from among its members.~~

~~— (6) The board shall meet as often as necessary to accomplish the purposes of this chapter, but not less than quarterly.~~

~~— (7) Board members shall receive compensation for actual and necessary expenses in connection with their service on the board, but shall not receive a per diem.~~

~~— Section 30} enter into a memorandum of understanding of how costs and responsibilities will be shared to:~~

(a) ensure that services provided under agreements with the federal government are fulfilled;

(b) ensure that commitments made by the State Board of Education with respect to the Utah State Office of Rehabilitation are met;

(c) provide ongoing or shared services as needed, including the provision of payments to the State Board of Education from the Department of Workforce Services; and

(d) ensure that money from the Office of Rehabilitation Transition Restricted Account, created in Section 53A-24-602, is used appropriately by the Department of Workforce Services and the State Board of Education.

Section 43. Section 53A-24-602 is enacted to read:

### 53A-24-602. Office of Rehabilitation Transition Restricted Account.

(1) There is created a restricted account within the General Fund known as the "Office of Rehabilitation Transition Restricted Account."

(2) The restricted account shall consist of appropriations made by the Legislature.

(3) Subject to appropriation, the Utah State Office of Rehabilitation, the Department of

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Workforce Services, and the State Board of Education may spend money from the restricted account to pay for commitments related to and services provided by the Utah State Office of Rehabilitation, including expenses related to moving the Utah State Office of Rehabilitation from the State Board of Education to the Department of Workforce Services.

Section 44. Section **54-8b-10** is amended to read:

**54-8b-10. Imposing a surcharge to provide hearing and speech impaired persons with telecommunication devices -- Definitions -- Procedures for establishing program -- Surcharge -- Administration and disposition of surcharge money.**

(1) As used in this section:

(a) "Certified deaf or severely hearing or speech impaired person" means any state resident who:

(i) is so certified by:

(A) a licensed physician;

(B) an otolaryngologist;

(C) a speech language pathologist;

(D) an audiologist; or

(E) a qualified state agency; and

(ii) qualifies for assistance under any low income public assistance program administered by a state agency.

(b) "Certified interpreter" means a person who is a certified interpreter under Title ~~[53A, Chapter 26a, Interpreter Services for the Hearing Impaired Act]~~ 35A, Chapter 13, Part 6, Interpreter Services for the Deaf and Hard of Hearing Act.

(c) (i) "Telecommunication device" means any mechanical adaptation device that enables a deaf or severely hearing or speech impaired person to use the telephone.

(ii) "Telecommunication device" includes:

(A) telecommunication devices for the deaf (TDD);

(B) telephone amplifiers;

(C) telephone signal devices;

(D) artificial larynxes; and

(E) adaptive equipment for TDD keyboard access.

(2) The commission shall hold hearings to establish a program whereby a certified deaf

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or severely hearing or speech impaired customer of a telecommunications corporation that provides service through a local exchange or of a wireless telecommunications provider may obtain a telecommunication device capable of serving the customer at no charge to the customer beyond the rate for basic service.

(3) (a) The program described in Subsection (2) shall provide a dual party relay system using third party intervention to connect a certified deaf or severely hearing or speech impaired person with a normal hearing person by way of telecommunication devices designed for that purpose.

(b) The commission may, by rule, establish the type of telecommunications device to be provided to ensure functional equivalence.

(4) (a) The commission shall impose a surcharge on each residential and business access line of each customer of local-exchange telephone service in this state, and each residential and business telephone number of each customer of mobile telephone service in this state, not including a telephone number used exclusively to transfer data to and from a mobile device, which shall be collected by the telecommunications corporation providing public telecommunications service to the customer, to cover the costs of:

- (i) the program described in Subsection (2); and
- (ii) payments made under Subsection (5).

(b) The commission shall establish by rule the amount to be charged under this section, provided that:

(i) the surcharge does not exceed 20 cents per month for each residential and business access line for local-exchange telephone service, and for each residential and business telephone number for mobile telephone service, not including a telephone number used exclusively to transfer data to and from a mobile device; and

(ii) if the surcharge is related to a mobile telecommunications service, the surcharge may be imposed, billed, and collected only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

(c) The telecommunications corporation shall collect the surcharge from its customers and transfer the money collected to the commission under rules adopted by the commission.

(d) The surcharge shall be separately identified on each bill to a customer.

(5) (a) Money collected from the surcharge imposed under Subsection (4) shall be

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deposited in the state treasury as dedicated credits to be administered as determined by the commission.

(b) These dedicated credits may be used only:

(i) for the purchase, maintenance, repair, and distribution of telecommunication devices;

(ii) for the acquisition, operation, maintenance, and repair of a dual party relay system;

(iii) to reimburse telephone corporations for the expenses incurred in collecting and transferring to the commission the surcharge imposed by the commission;

(iv) for the general administration of the program;

(v) to train persons in the use of telecommunications devices; and

(vi) by the commission to contract, in compliance with Title 63G, Chapter 6a, Utah Procurement Code, with:

(A) an institution within the state system of higher education listed in Section 53B-1-102 for a program approved by the Board of Regents that trains persons to qualify as certified interpreters; or

(B) the ~~[Division of Services to the Deaf and Hard of Hearing]~~ Utah State Office of Rehabilitation created in Section 35A-1-202 for a program that trains persons to qualify as certified interpreters.

(c) (i) The commission shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the administration of money under Subsection (5)(b)(vi).

(ii) In the initial rulemaking to determine the administration of money under Subsection (5)(b)(vi), the commission shall give notice and hold a public hearing.

(d) Money received by the commission under Subsection (4) is nonlapsing.

(6) (a) The telephone surcharge need not be collected by a telecommunications corporation if the amount collected would be less than the actual administrative costs of the collection.

(b) If Subsection (6)(a) applies, the telecommunications corporation shall submit to the commission, in lieu of the revenue from the surcharge collection, a breakdown of the anticipated costs and the expected revenue from the collection, showing that the costs exceed the revenue.

(7) The commission shall solicit the advice, counsel, and physical assistance of

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severely hearing or speech impaired persons and the organizations serving them in the design and implementation of the program.

Section ~~{31}~~45. Section 55-5-2 is amended to read:

### **55-5-2. Licensing agency -- Duties of the Utah State Office of Rehabilitation.**

(1) The [~~Division of Services for the Blind and Visually Impaired;~~] Utah State Office of Rehabilitation created in Section 35A-1-202 is designated as the licensing agency for the purpose of carrying out this chapter.

(2) The [~~Division of Services for the Blind and Visually Impaired;~~] Utah State Office of Rehabilitation shall:

- (a) take necessary steps to carry out the provisions of this chapter;
- (b) with the approval of the custodian having charge of the building, park or other property in which the vending stand or other enterprise is to be located, select a location for such stand or enterprise and the type of equipment to be provided;
- (c) construct and equip stands where blind persons may be trained under the supervision of the [~~Division of Services for the Blind and Visually Impaired;~~] Utah State Office of Rehabilitation to carry on a business as a vending stand operator;
- (d) provide adequate supervision of each person licensed to operate vending stands or other enterprises to ensure efficient and orderly management; and
- (e) make rules necessary for the proper operation of vending stands or other enterprises.

Section ~~{32}~~46. Section 55-5-7 is amended to read:

### **55-5-7. Agencies to negotiate for food service with the Utah State Office of Rehabilitation -- Existing contracts.**

(1) A governmental agency [~~which~~] that proposes to operate or continue a food service in a public office building shall first attempt in good faith to make an agreement with the [~~Division of Services for the Blind and Visually Impaired;~~] Utah State Office of Rehabilitation created in Section 35A-1-202 to operate the food service without payment of rent.

(2) The governmental agency may not offer or grant to any other party a contract or concession to operate the food service unless the governmental agency determines in good faith that the [~~Division of Services for the Blind and Visually Impaired;~~] Utah State Office of Rehabilitation is not willing to or cannot satisfactorily provide the food service.

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(3) This act may not impair any valid contract existing on the effective date of this act, and does not preclude renegotiation of a valid contract on the same terms and with the same parties.

Section ~~{33}~~47. Section **55-5-8** is amended to read:

### **55-5-8. Food service in exempt buildings.**

With respect to all state, county, and municipal buildings [~~which~~] that are not subject to Section 55-5-7, the governmental agency in charge of the building shall consider allowing the [~~Division of Services for the Blind and Visually Impaired~~] the Utah State Office of Rehabilitation created in Section 35A-1-202 to operate any existing or proposed food service in the building, and shall discuss the operation with the division under Section [~~53A-24-304~~] 35A-13-402 upon its request.

Section ~~{34}~~48. Section **55-5a-2** is amended to read:

### **55-5a-2. Definitions.**

As used in this [~~act~~] chapter:

(1) "Blind" means an individual, or class of individuals, whose central acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20 degrees.

~~[(2) "Division" means the Division of Services for the Blind and Visually Impaired.]~~

~~[(3)]~~ (2) "Direct labor" means work required for preparation, processing~~[-]~~ and packing, other than supervision, administration, inspection [~~and~~], or shipping.

(3) "Office" means the Utah State Office of Rehabilitation created in Section 35A-1-202.

Section ~~{35}~~49. Section **55-5a-3** is amended to read:

**55-5a-3. Permit required to sell blind-made products or services or to make sales to help the blind and visually impaired.**

(1) A person, group of persons, or organization may not~~[-]~~ by any means, sell, transfer, or otherwise dispose of goods, articles, or products to the public in this state [~~which~~] that are labeled as made by the blind or sold as products of the blind without first securing a permit in writing from the office for each person selling or soliciting the sale of those goods, articles, or products [~~from the Division of Services for the Blind and Visually Impaired~~].

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(2) A person, group of persons, or organization may not conduct or engage in any business ~~whatsoever~~ in this state, if the word "blind" is used to designate its product's origin or manufacture or if it is used in such a manner as to indicate the services, goods, articles, or products that it provides are blind-made or provide help for the blind or visually impaired, unless a written permit is obtained from the ~~division~~ office to do so.

(3) A person, group of persons, or organization may not conduct any of the activities designated in this section using a name, trade name, logo, or other identifying mark or name ~~which~~ that implies that the person, group of persons, or organization using the name is affiliated with or sponsored by the state or any of its agencies or subdivisions, when the person, group of persons, or organization is not sponsored or supported by the state or one of its agencies or subdivisions.

Section ~~36~~ 50. Section **55-5a-4** is amended to read:

### **55-5a-4. Issuance of permits -- Eligibility -- Fee -- Local license or permit.**

(1) The ~~division~~ office may adopt rules and regulations, prescribe procedures, adopt forms and applications, review applications for permits, and issue permits as required by Section 55-5a-3 subject to the following:

(a) A product shall be considered "blind-made" if 75% or more of the direct labor hours required for its manufacture are provided by the blind.

(b) A person or organization shall be considered to be selling blind-made products if 60% or more of the wholesale cost of the seller's average inventory of products is blind-made and the seller clearly differentiates by the use of labels or other markings between blind-made products and other products.

(c) Individuals or businesses are conducting sales by the blind if 75% or more of the direct labor hours in packaging, marketing, soliciting and making sales are provided by the blind.

(d) Upon receipt of appropriate documentation indicating qualification of a person or organization seeking a license under this act, the ~~division~~ office shall issue permits for any one ~~;~~ or ~~a~~ combination of the following:

(i) sale of products manufactured by the blind~~;~~;

(ii) sale of blind-made products by the blind~~, and~~; or

(iii) sale by the blind of products not made by the blind.



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(e) No permit shall be issued by the [division] office if the business name, trade name, or logo of the organization seeking the permit is similar to the name of or in any way implies an affiliation with or support of the state or one of its agencies or subdivisions if the organization is not so affiliated.

(2) A fee of not more than \$5 shall be charged for the issuance and renewal of each permit ~~[which]~~ that shall be valid for a period of one year unless earlier revoked for good cause shown.

(3) No political subdivision of this state shall issue ~~[any]~~ a license or permit ~~[whatsoever]~~ to sell blind-made goods, articles, or products unless the person applying for that license or permit has first obtained a valid permit issued by the [division] office.

Section ~~{37}~~ 51. Section **55-5a-5** is amended to read:

### **55-5a-5. Application for permit -- Investigation -- Exception -- Appeal of denial.**

(1) The [division] office shall investigate each application for a permit to ~~[assure]~~ ensure that the person, group of persons, or organization is actually engaged in the manufacture or distribution of goods, articles, or products made by blind persons within the meaning of this act. ~~[The {} division] {}~~

(2) Notwithstanding Subsection (1), the office may issue permits without investigation~~[, however,]~~ to nonresident persons, groups of persons, or organizations upon proof that they are recognized and approved by the state in which they reside as authorized to sell such goods, articles, or products pursuant to a law of that state imposing requirements substantially similar to those prescribed ~~[pursuant to]~~ by this act.

(3) Anyone denied a permit may appeal the decision of the ~~[division {} office]~~ to the ~~state superintendent of public instruction or his]~~ office to the executive director of the Department of Workforce Services or the executive director's designated agent.

Section ~~{38}~~ 52. Section **62A-5a-102** is amended to read:

### **62A-5a-102. Definitions.**

As used in this chapter:

(1) "Council" means the Coordinating Council for Persons with Disabilities.

(2) "State agencies" means:

(a) the Division of Services for People with Disabilities and the Division of Substance Abuse and Mental Health, within the Department of Human Services;

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- (b) the Division of Health Care Financing within the Department of Health;
- (c) family health services programs established under Title 26, Chapter 10, Family Health Services, operated by the Department of Health;
- (d) the Utah State Office of Rehabilitation created in Section 35A-1-202; and
- (e) special education programs operated by the State Office of Education and local school districts under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities. Section ~~39~~53. Section **62A-5a-103** is amended to read:

**62A-5a-103. Coordinating Council for Persons with Disabilities -- Creation -- Membership -- Expenses.**

- (1) There is created the Coordinating Council for Persons with Disabilities.
- (2) The council shall consist of:
  - (a) the director of the Division of Services for People with Disabilities within the Department of Human Services, or ~~his~~ the director's designee;
  - (b) the director of family health services programs, appointed under Section 26-10-3, or ~~his~~ the director's designee;
  - (c) the ~~executive~~ director of the Utah State Office of Rehabilitation created in Section 35A-1-202, or ~~his~~ the director's designee;
  - (d) the state director of special education, or ~~his~~ the director's designee;
  - (e) the director of the Division of Health Care Financing within the Department of Health, or ~~his~~ the director's designee;
  - (f) the director of the Division of Substance Abuse and Mental Health within the Department of Human Services, or ~~his~~ the director's designee;
  - (g) the superintendent of Schools for the Deaf and the Blind, or ~~his~~ the superintendent's designee; and
  - (h) a person with a disability, a family member of a person with a disability, or an advocate for persons with disabilities, appointed by the members listed in Subsections (2)(a) through (g).
- (3) (a) The council shall annually elect a chair from its membership.
- (b) Five members of the council are a quorum.
- (4) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

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- (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.

Section ~~{40}~~54. Section **62A-5a-105** is amended to read:

### **62A-5a-105. Coordination of services for school-age children.**

(1) Within appropriations authorized by the Legislature, the state director of special education, the [~~executive~~] director of the Utah State Office of Rehabilitation created in Section 35A-1-202, the executive director of the Department of Human Services, and the family health services director within the Department of Health, or their designees, and the affected local school district shall cooperatively develop a single coordinated education program, treatment services, and individual and family supports for students entitled to a free appropriate education under Title 53A, Chapter 15, Part 3, Education of Children with Disabilities, who also require services from the Department of Human Services, the Department of Health, or the Utah State Office of Rehabilitation.

(2) Distribution of costs for services and supports described in Subsection (1) shall be determined through a process established by the State Board of Education, the Department of Human Services, and the Department of Health.

Section ~~{41}~~55. Section **63B-19-201** is amended to read:

### **63B-19-201. Authorizations to design and construct capital facilities using institutional or agency funds.**

- (1) The Legislature intends that:
  - (a) Southern Utah University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$10,000,000 in donations and the revenue bond authorized in Subsection 63B-19-102(6) to plan, design, and construct a Southern Utah Museum of Arts, with 28,000 new square feet;
  - (b) no state funds be used for any portion of this project; and
  - (c) the university may not request state funds for operation and maintenance costs or capital improvements.
- (2) The Legislature intends that:
  - (a) the University of Utah may, subject to the requirements of Title 63A, Chapter 5,

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State Building Board - Division of Facilities Construction and Management, use \$17,878,000 in donations, federal funds, and institutional funds to plan, design, and construct an addition to the Henry Eyring Building, with 40,915 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operation and maintenance costs or capital improvements.

(3) The Legislature intends that:

(a) Utah State University may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$3,000,000 in donations to plan, design, and construct a Botanical Center classroom building, with 7,900 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the university may not request state funds for operation and maintenance costs or capital improvements.

(4) The Legislature intends that:

(a) [~~the Division of Services for the Blind and Visually Impaired in~~] the Utah State Office of Rehabilitation created in Section 35A-1-202 may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$1,497,000 in federal grants to plan, design, and construct a residential facility for the blind, with 8,000 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the division may not request state funds for operation and maintenance costs or capital improvements.

(5) The Legislature intends that:

(a) the Department of Public Safety may, subject to the requirements of Title 63A, Chapter 5, State Building Board - Division of Facilities Construction and Management, use \$3,294,000 of nonlapsing balances within the driver license line item in the Department of Public Safety budget in fiscal year 2010 to plan, design, and construct an Ogden driver license building with 10,500 new square feet;

(b) no state funds be used for any portion of this project; and

(c) the department may not request state funds for operation and maintenance costs or

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capital improvements.

(6) The Legislature intends that:

(a) the University of Utah may use donations to prepare preliminary plans for a dental school building;

(b) no state funds be used for any portion of the planning; and

(c) the University of Utah may not design or construct a dental school building unless and until the Legislature authorizes:

(i) the design and construction of a dental school building;

(ii) the University to pursue the establishment of a dental school program; and

(iii) the appropriation of funds at a level sufficient to fund a dental school program at the University of Utah.

Section ~~{42}~~56. Section **63G-6a-805** is amended to read:

### **63G-6a-805. Purchase from community rehabilitation programs.**

(1) As used in this section:

(a) "Advisory board" means the Purchasing from Persons with Disabilities Advisory Board created under this section.

(b) "Central not-for-profit association" means a group of experts designated by the advisory board to do the following, under guidelines established by the advisory board:

(i) assist the advisory board with its functions; and

(ii) facilitate the implementation of advisory board policies.

(c) (i) "Community rehabilitation program" means a program that is operated primarily for the purpose of the employment and training of persons with a disability by a government agency or qualified nonprofit organization which is an income tax exempt organization under 26 U.S.C. Sec. 501(c)(3) of the Internal Revenue Code.

(ii) A community rehabilitation program:

(A) maintains an employment ratio of at least 75% of the program employees under the procurement contract in question have severe disabilities;

(B) (I) complies with any applicable occupational health and safety standards prescribed by the United States Department of Labor; or

(II) is a supported employment program approved by the Utah State Office of Rehabilitation created in Section 35A-1-202;

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- (C) has its principal place of business in Utah;
- (D) produces any good provided under this section in Utah; and
- (E) provides any service that is provided by individuals with a majority of whom

domiciled in Utah.

(d) "Person with a disability" means a person with any disability as defined by and covered under the Americans with Disabilities Act of 1990, 42 U.S.C. 12102.

(2) There is created within the division the Purchasing from Persons with Disabilities Advisory Board.

(3) The advisory board shall consist of three members, as follows:

(a) the director of the division or the director's designee;

(b) the ~~[executive]~~ director of the Utah State Office of Rehabilitation~~[, created under Section 53A-24-103,]~~ or the ~~[executive]~~ director's designee; and

(c) a representative of the private business community who shall be appointed to a three-year term by the governor with the advice and consent of the Senate.

(4) The advisory board shall meet, as needed, to facilitate the procurement of goods and services from community rehabilitation programs by a procurement unit under this chapter by:

(a) identifying goods and services that are available from community rehabilitation programs in accordance with the requirements of Subsection (7);

(b) approving prices in accordance with Subsection (7)(c) for goods and services that are identified under Subsection (4)(a);

(c) developing, maintaining, and approving a preferred procurement contract list of goods and services identified and priced under Subsections (4)(a) and (b);

(d) reviewing bids received by a community rehabilitation program; and

(e) awarding and renewing specified contracts for set contract times, without competitive bidding, for the purchase of goods and services under Subsection (7).

(5) The provisions of Subsections (4) and (7)(a) are an exception to the procurement provisions under this chapter.

(6) (a) The advisory board may designate a central not-for-profit association, appoint its members, and establish guidelines for its duties.

(b) The designated central not-for-profit association serves at the pleasure of the

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advisory board. The central not-for-profit association or its individual members may be removed by the advisory board at any time by a majority vote of the advisory board.

(c) Subject to the advisory board guidelines and discretion, a designated central not-for-profit association may be assigned to perform the following duties:

(i) identify qualified community rehabilitation programs and the goods and services that they provide or have the potential to provide;

(ii) help ensure that goods and services are provided at reasonable quality and delivery levels;

(iii) recommend pricing for goods and services;

(iv) review bids and recommend the award of contracts under the advisory board's direction;

(v) collect and report program data to the advisory board and to the division; and

(vi) other duties specified by the advisory board.

(7) Except as provided under Subsection (9), notwithstanding any provision of this chapter to the contrary, each procurement unit shall purchase goods and services produced by a community rehabilitation program using the preferred procurement contract list approved under Subsection (4)(c) if:

(a) the good or service offered for sale by a community rehabilitation program reasonably conforms to the needs and specifications of the procurement unit;

(b) the community rehabilitation program can supply the good or service within a reasonable time; and

(c) the price of the good or service is reasonably competitive with the cost of procuring the good or service from another source.

(8) Each community rehabilitation program:

(a) may submit a bid to the advisory board at any time and not necessarily in response to an invitation for bids; and

(b) shall certify on any bid it submits to the advisory board or to a procurement unit under this section that it is claiming a preference under this section.

(9) During a fiscal year, the requirement for a procurement unit to purchase goods and services produced by a community rehabilitation program under the preferred procurement list under Subsection (7) does not apply if the division determines that the total amount of

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procurement contracts with community rehabilitation programs has reached \$5 million for that fiscal year.

(10) In the case of conflict between a purchase under this section and a purchase under Section 63G-6a-804, this section prevails.

Section 57. Section 63I-2-253 is amended to read:

**63I-2-253. Repeal dates -- Titles 53, 53A, and 53B.**

(1) Section 53A-1-403.5 is repealed July 1, 2017.

(2) Subsection 53A-1-410(5) is repealed July 1, 2015.

(3) Section 53A-1-411 is repealed July 1, 2017.

(4) Section 53A-1a-513.5 is repealed July 1, 2017.

(5) Title 53A, Chapter 1a, Part 10, UPSTART, is repealed July 1, 2019.

(6) Title 53A, Chapter 8a, Part 8, Peer Assistance and Review Pilot Program, is repealed July 1, 2017.

(7) Sections 53A-24-601 and 53A-24-602 are repealed January 1, 2018.

Section ~~{43}~~58. Section **63J-1-601** is amended to read:

**63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.**

(1) As used in this section, "transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

(i) enterprise funds;

(ii) internal service funds;

(iii) trust and agency funds;

(iv) capital projects funds;

(v) discrete component unit funds;

(vi) debt service funds; and



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(vii) permanent funds;

(b) those revenue collections, appropriations from a fund or account, or appropriations to a program that are designated as nonlapsing under Sections 63J-1-602.1 through 63J-1-602.5;

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of Parks and Recreation;

(e) funds encumbered to pay purchase orders issued prior to May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made prior to June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) No amounts may be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of Health Care Financing records on each claim invoice is the date of receipt.

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(5) (a) For purposes of this chapter, a claim processed in accordance with Title ~~[53A]~~ 35A, Chapter ~~[24]~~ 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Section ~~{44}~~ 59. Section **63J-1-602.3** is amended to read:

**63J-1-602.3. List of nonlapsing funds and accounts -- Title 46 through Title 60.**

(1) Funding for the Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(2) Appropriations made to the Division of Emergency Management from the State Disaster Recovery Restricted Account, as provided in Section 53-2a-603.

(3) Appropriations made to the Department of Public Safety from the Department of Public Safety Restricted Account, as provided in Section 53-3-106.

(4) Appropriations to the Motorcycle Rider Education Program, as provided in Section 53-3-905.

(5) Appropriations from the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(6) Appropriations from the DNA Specimen Restricted Account created in Section 53-10-407.

(7) The Canine Body Armor Restricted Account created in Section 53-16-201.

(8) The School Readiness Restricted Account created in Section 53A-1b-104.

(9) Appropriations to the State Board of Education, as provided in Section 53A-17a-105.

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(10) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section ~~[53A-24-105]~~ 35A-13-202.

(11) Certain funds appropriated from the General Fund to the State Board of Regents for teacher preparation programs, as provided in Section 53B-6-104.

(12) Funding for the Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(13) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

(14) Certain surcharges on residential and business telephone numbers imposed by the Public Service Commission, as provided in Section 54-8b-10.

(15) Certain fines collected by the Division of Occupational and Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(16) Certain fines collected by the Division of Occupational and Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(17) Appropriations from the Relative Value Study Restricted Account created in Section 59-9-105.

(18) The Cigarette Tax Restricted Account created in Section 59-14-204.

Section ~~{45}~~60. Section **78B-1-203** is amended to read:

**78B-1-203. Effectiveness of interpreter determined.**

(1) Before appointing an interpreter, the appointing authority shall make a preliminary determination, on the basis of the proficiency level established by the Utah ~~[division of rehabilitation services]~~ State Office of Rehabilitation created in Section 35A-1-202 and on the basis of the hearing-impaired person's testimony, that the interpreter is able to accurately communicate with and translate information to and from the hearing-impaired person involved.

(2) If the interpreter is not able to provide effective communication with the hearing-impaired person, the appointing authority shall appoint another qualified interpreter.

Section ~~{46}~~61. Section **78B-1-206** is amended to read:

**78B-1-206. List of qualified interpreters -- Use -- Appointment of another.**

(1) The Utah ~~[division of rehabilitation services]~~ State Office of Rehabilitation created

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in Section 35A-1-202 shall establish, maintain, update, and distribute a list of qualified interpreters.

(2) (a) When an interpreter is required under this part, the appointing authority shall use one of the interpreters on the list provided by the Utah [~~division of rehabilitation services~~] State Office of Rehabilitation.

(b) If none of the listed interpreters are available or are able to provide effective interpreting with the particular hearing-impaired person, then the appointing authority shall appoint another qualified interpreter who is able to accurately and simultaneously communicate with and translate information to and from the particular hearing-impaired person involved.

Section ~~{47}~~62. Section **78B-1-208** is amended to read:

### **78B-1-208. Compensation of interpreter.**

(1) An interpreter appointed under this part is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses.

(2) The fee shall be based on a fee schedule for interpreters recommended by the [~~division of rehabilitation services~~] Utah State Office of Rehabilitation created in Section 35A-1-202 or on prevailing market rates.

(3) Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally.

(4) Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

Section ~~{48}~~63. **Repealer.**

This bill repeals:

Section **53A-15-205, Disability Determination Services Advisory Council -- Membership -- Duties -- Requirements for DDDS.**

Section **53A-24-110.5, Assistive Technology Advisory Council -- Membership -- Duties.**

Section **53A-24-110.7, Appropriation for assistive technology devices and services.**

Section **53A-24-201, Definition.**

Section **53A-24-202, Creation.**

Section **53A-24-203, Appointment of division director -- Administration.**

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Section 53A-24-204, Division responsibilities.

Section 53A-24-301, Definitions.

Section 53A-24-302, Creation.

Section 53A-24-303, Appointment of division director -- Administration.

Section 53A-24-401, Definitions.

Section 53A-24-402, Creation.

Section 53A-24-403, Appointment of administrator for the division.

Section 53A-24-501, Creation.

Section 53A-24-502, Appointment of administrator for the division.

Section 53A-24-503, Division responsibilities.

Section ~~{49}~~64. **Appropriation -- Operating and capital budgets.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2016, and ending June 20, 2017, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to amounts previously appropriated for fiscal year 2017.

### Item 1: To Department of Workforce Services -- Utah State Office of Rehabilitation

|   |                       |
|---|-----------------------|
| <u>From General Fund</u>  | <u>\$21,385,100</u>   |
| <u>From General Fund, one-time</u>                              | <u>(\$21,385,100)</u> |
| <u>From General Fund Restricted -- Office of Rehabilitation</u> |                       |
| <u>Transition Restricted Account</u>                            | <u>\$26,385,100</u>   |
| <u>From Federal Funds</u>                                       | <u>\$62,656,000</u>   |
| <u>From Dedicated Credits Revenue</u>                           | <u>\$985,600</u>      |
| <u>Schedule of Programs:</u>                                    |                       |
| <u>Executive Director</u>                                       | <u>\$2,965,300</u>    |
| <u>Blind and Visually Impaired</u>                              | <u>\$6,109,700</u>    |
| <u>Rehabilitation Services</u>                                  | <u>\$46,461,800</u>   |
| <u>Disability Determination</u>                                 | <u>\$15,655,600</u>   |
| <u>Deaf and Hard of Hearing</u>                                 | <u>\$2,988,600</u>    |
| <u>Aspire Grant</u>   | <u>\$10,845,700</u>   |

The Legislature intends that the Department of Workforce Services may spend up to the

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amount appropriated in this item from the General Fund Restricted -- Office of Rehabilitation Transition Restricted Account for fiscal year 2017, but that expenditures from the account in this item of appropriation plus expenditures from the account at the State Board of Education may not exceed the total amount available in the account.

Item 2: To State Board of Education -- Utah State Office of Rehabilitation

|   |                       |
|---|-----------------------|
| <u>From General Fund</u>  | <u>(\$273,700)</u>    |
| <u>From Education Fund</u>  | <u>(\$21,111,400)</u> |
| <u>From General Fund Restricted -- Office of Rehabilitation Transition Restricted Account</u> | <u>\$26,385,100</u>   |
| <u>Schedule of Programs:</u>  |                       |
| <u>Vocational Rehabilitation</u>  | <u>\$5,000,000</u>    |

The Legislature intends that the State Board of Education may spend up to the amount appropriated in this item from the General Fund Restricted -- Office of Rehabilitation Transition Restricted Account for fiscal year 2017, but that expenditures from the account in this item of appropriation plus expenditures from the account at the Department of Workforce Services may not exceed the total amount available in the account.

**Section 65. Appropriation -- Restricted fund and account transfers.**

The Legislature authorizes the Division of Finance to transfer the following amounts among the following funds or accounts as indicated. Expenditures and outlays from the recipient funds must be authorized elsewhere in an appropriations act.

Item 3: To General Fund Restricted -- Office of Rehabilitation Transition Restricted Account

|   |                     |
|---|---------------------|
| <u>From General Fund, one-time</u>                      | <u>\$21,385,100</u> |
| <u>From Beginning Nonlapsing Appropriation Balances</u> | <u>\$5,000,000</u>  |
| <u>Schedule of Programs:</u>                            |                     |

|  |                     |
|--|---------------------|
| <u>General Fund Restricted -- Office of Rehabilitation Transition Restricted Account</u> | <u>\$26,385,100</u> |
|--|---------------------|

The Legislature intends that the fiscal year 2016 ending balances at the Utah State Office of Rehabilitation within the State Board of Education not lapse and the Division of Finance transfer those balances into the General Fund Restricted -- Office of Rehabilitation Transition Restricted Account at the close of fiscal year 2016.

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Section 66. Effective date.

~~{This bill takes effect on July 1, 2016.~~

### Legislative Review Note

~~Office of Legislative Research and General Counsel~~ (1) Except as provided in Subsections (2) and (3), this bill takes effect on October 1, 2016.

(2) If approved by two-thirds of all the members elected to each house, amendments to Section 53A-24-601 and Section 53A-24-602 in this bill take effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(3) Uncodified Section 64, Appropriation -- Operating and capital budgets, and Section 65, Appropriation -- Restricted fund and account transfers, in this bill take effect on July 1, 2016.